

REPORT
OF THE
North-West Frontier Enquiry
Committee

AND
MINUTES OF DISSENT

BY
MR. T. RANGACHARIAR

AND
MR. N. M. SAMARTH



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REPORT OF THE NORTH-WEST FRONTIER COMMITTEE.

INTRODUCTORY.

1. The genesis of our Committee is to be found in the debate instituted by Sir Sivaswamy Aiyer in the Legislative

The origin of the Committee.

Assembly on the 21st September 1921. The Resolution then passed in the Assembly fell into two parts, the former advocating the immediate transfer of the judicial administration in the North-West Frontier Province to the Punjab High Court, the other advocating the appointment of a Committee to report on the expediency of the re-amalgamation of the five settled districts with the Punjab. The Government of India decided to deal with the Resolution as a whole, and to subject the expediency of a partial or complete re-amalgamation of the province with the Punjab to a searching enquiry by a Committee on the frontier itself. For the moment, however, their hands were tied. Negotiations for an Anglo-Afghan Treaty were in progress at Kabul and it was thought inadvisable to add to the excitement those long-drawn-out negotiations were creating on the frontier. The general stir set up along the frontier by our tour through the province proved the wisdom of this delay.

2. By the beginning of February the frontier had settled down sufficiently after the conclusion of the Afghan Treaty

Its composition.

towards the close of November to permit of the announcement of the decision to appoint a Committee. Its actual composition and the terms of reference were announced in April. The Committee was to comprise eight Members :—

The Hon'ble Saiyid Raza Ali, Member of the Council of State.

Rao Bahadur Tiruvenkata Rangachariar, M.L.A.,

Chaudhri Shahabuddin, M.L.A.,

Mr. Narayan Madhav Samarth, M.L.A.,

Khan Bahadur Abdul Rahim Khan, M.L.A.,

Mr. A. H. Parker, District and Sessions Judge, Punjab.

Mr. H. N. Bolton, Revenue Commissioner, North-West Frontier Province, with Mr. Denys Bray, officiating Foreign Secretary, as President.

It had been the wish of Government to include Sir Sivaswamy Aiyer, the chief spokesman in the Assembly on the side of re-amalgamation with the Punjab. That his visit to England precluded him from accepting nomination was a matter of regret to Government; it was equally a matter of regret to ourselves. It will be observed that the Committee included six members of the Legislature, of whom no less than five are non-official. Of the five non-official Indians, one belongs to the United Provinces, one to Madras, one to the Punjab, one to Bombay and one to the North-West Frontier Province. All three Englishmen are civilian members of the Punjab Commission. One has served throughout in the Punjab; the second has served almost continuously in the Frontier Province both before and since its creation; the third joined the Province shortly after its creation and left it after couple of years.

The terms of reference.

3. The terms of reference on which we have to report are these :—

- (i) whether it is expedient to separate the administration of the five administered districts of the North-West Frontier Province from the political control of the adjoining unadministered tracts;
- (ii) whether if such separation is expedient, it is expedient to re-amalgamate the five districts with the Punjab;
- (iii) whether, if such separation is not expedient, it is expedient (a) to retain the whole province directly under the Government of India, and if so (b) to constitute a Legislative Council for the five administered districts;

(iv) whether if the retention of the province under the Government of India is expedient, it is expedient to transfer the control of the Judicial Administration to the High Court of the Punjab, and if not, what measures are recommended for the improvement of the existing judicial system ; and

(v) the approximate financial effect of any proposals recommended. -

4. We met on the frontier on the 12th May, and recorded evidence, official and non-official, in Peshawar, Kohat, Bannu, Dera Ismail Khan and Abbottabad. After

Our procedure.

taking the evidence of the Registrar of the Punjab High Court in Lahore, we proceeded to Simla, where we recorded the evidence of the Punjab Government and of non-official witnesses from the Punjab, and spent several days in an unfortunately fruitless attempt to secure unanimity of opinion amongst ourselves. Some idea of the scope of our enquiries may be gathered from the fact that the memoranda we examined and the evidence we recorded cover no less than 1,711 foolscap pages of print. Despite the overwhelming majority of Muslims in the Frontier Province, Hindus and Muslims were represented almost equally in the witnesses before us. The evidence of the urban minority was exhaustively recorded. At every centre we listened patiently in particular to the views of the local Bar. It was a pleasant tribute to the catholic character of our enquiry that it attracted even non-co-operators to air their views before us.

5. We made no attempt to count heads. We endeavoured to follow up the main

General impressions.

currents of opinion, to gauge the strength of the opposing forces and to probe the validity of the arguments that impelled them. We found two main currents. Hindus and towns are generally in favour of amalgamation ; Muslims and villages are generally in favour of a separate province. There are of course cross currents. Thus many Muslims especially in the towns favour amalgamation ; many Hindus, especially in the villages on the border are against it. But the courses of the main currents are well-defined, and if the question were to be decided by numbers only, the vast preponderance of the rural and Muslim population over the urban and Hindu population, would have enabled us to cut our labours short by a summary verdict against re-amalgamation. For even in the settled districts the Hindus, including Sikhs represent only 7.9 per cent. of the total population against the Muslim percentage of 91.6 in the tribal tracts. Of course the number of Hindus is microscopic. Of the Muslims in the districts, 39 per cent. were returned at the census at Pathans. But this does not represent a true picture of the Pathan character of the Frontier Province, for probably all the Saiyids and the great mass of the village dependents form a part of the Pathan tribal system*. The tribal tracts are almost wholly Pathan.

6. A rapid survey of the past history of the province will perhaps help towards

Brief historical retrospect of the Frontier.

a proper appreciation of the problems presented in our terms of reference. Some 900 years back the frontier districts were part of the Punjab, for Peshawar was then a province of Lahore. On the invasion of India by Mahmud of Ghazni, they passed into the possession of the various Muslim rulers of Afghanistan, and did not revert to the Punjab until the Sikh conquest in the third decade of the 19th century. But the Sikh occupation was never effective : it amounted to little more than periodical military incursions for the collection of revenue. Its real nature may be gathered from the lurid description of Bannu and Dera Ismail Khan given by Edwardes then a servant of the Sikh Government, and from the description of Peshawar, perhaps even more graphic, given by Major James, who wrote thus in the 'fifties :—

"The periodical visits of the Sikhs were calamitous to the people ; their approach was the signal for the removal of property and valuables and even of the window and door-frames of the houses ; crowds of women and children fled rightened from their homes, and the country presented the appearance of an emigrating colony : as the hated host advanced, they overran the neighbourhood,

* These are the salient statistics for the five Districts according to the last census :—

						Rural.	Urban.
Moslems	..	..	..	..	..	1,850,275	212,511
Hindus	..	..	..	..	..	55,219	91,632
Sikhs	..	..	..	..	..	9,303	18,737

The language of 53 per cent. of the population is Pushtu.

pillaging and destroying whatever came within their reach and laying waste the fields. The maintenance of internal order was scarcely attempted; blood-feuds between districts, villages and families were unchecked or followed only by the levy of fines, when the Government officers deemed it prudent to interfere. . . . Dacoities and raids were constant occurrences and but lightly thought of until their frequent repetition would cause the tribes in the plains to retaliate under the guidance of their Malik and Arabs."

This description refers specifically to Peshawar; it applies equally to the other Trans-Indus districts under the Sikh rule.

7. With the annexation of the Punjab, British rule laboriously evolved order out of chaos. In the early days there was no special agency for dealing with the tribal tracts. Our relations with the tribes were conducted by the deputy commissioners of the adjoining districts, mostly through the intermediary of the Khans. The system of political agencies started in 1878 with the appointment of a special officer for the Khyber during the second Afghan War, and his duties for many years seem to have been merely to keep the pass open. The Kurram, which was ceded by Afghanistan in 1879, was not made a separate agency till 1892. In 1893 the boundary between Afghanistan and India was fixed by the Durand agreement, and the line known as the Durand line was demarcated for the greater part of its length in the following year. Under this agreement, the British Government became responsible for a definite strip of tribal territory intervening between British India and Afghanistan, and the dealings of our officers with the tribes became more intimate in consequence. The three remaining agencies, Malakand, Tochi and Wana were created in 1895-96, not that the whole trans-frontier area was parcelled out among these five trans-frontier agencies. On the contrary, roughly half of it remained, and still remains, under the control of the Deputy Commissioner of the adjoining districts. The Malakand was placed directly under the Government of India from the outset. All the other agencies remained with the Punjab Government.* Thus, the creation of agencies, if the Malakand is excepted, did not sever the tracts from the districts. The subordinate agency alone became separate; the superior control of both lay in the hands of one officer, the Commissioner of Peshawar or the Commissioner of the Derajat, and the whole frontier area—save only the Malakand—remained under the Punjab Government. The reasons for treating the Malakand as a thing apart are not far to seek. But we are tempted to enlarge on them to illustrate the practical difficulties in making a cleavage between the administration of the districts and the control of the tracts. Most of the large area covered by the Malakand agency was administered, either by ourselves as in lower Swat, or as in Chitral, Dir and Bajaur, by Chiefs in alliance with and subordination to us. In other words, in the greater part of the Malakand agency we were concerned with territory under a definite form of administration. Contrast this with the conditions in the so-called Independent Territory of Tirah, Waziristan and the rest. We have, it is true, driven roads up the great arteries of the Khyber, the Kurram, the Tochi and the Gumal. But with the partial exception of the Kurram, where our tribal administration on the tribal lines has since developed beyond all expectation, our writ did not and does not run beyond the immediate limits of our roads. And in the rest of the vast block of Independent Territory, tribal law—or what we should call lawlessness—was and is the only law and its ultimate sanction is the rifle in the hands of the individual tribesman. The only control we could and indeed still can exercise over it is political control, exercised in and through the districts, or brute force, exercised in the last resort by the forcible exclusion of the tribesmen from the districts or by punitive expedition into their country.

8. From the time of the British annexation of the Punjab down to 1901, the frontier districts and the adjoining frontier tracts remained with the Punjab. In 1901 in consequence of the decision of His Majesty's Government "that the conduct of external relations with the tribes on the frontier should be more directly than heretofore under the control and supervision of the Government of India", the whole area was taken under the immediate charge of the Government of India.

* Except of course when they were the scene of actual military operations. The Khyber may also seem an exception. The Political Agent corresponded direct with the Government of India, but only in so far as he acted as a post office between Simla and Kabul; moreover, as a purveyor of Kabul news, he sent copies of his reports direct to the Government of India. But in ordinary tribal matters he was under the Punjab Commissioner of Peshawar. Thus, this exception belongs to the category of exceptions that prove the rule.

The task before us is described in many words in our terms of reference. It may be described in brief thus :—Should the frontier continue as a separate Province, or should it be split up into two, the one half, the districts being re-amalgamated with the Punjab and the other, the trans-frontier tracts, retained under the direct control of the Government of India ?

FIRST TERM OF REFERENCE.

- (i) “ *Whether it is expedient to separate the administration of the five administered districts of the North-West Frontier Province from the political control of the adjoining unadministered tracts.* ”

9. Perhaps the easiest way to get into the thick of our problem is to analyse

the reverse problem that exercised the Government of India up to the time of Lord Curzon. The ingredients in the problem were the same as they are now :—the frontier districts, obviously the proper concern of a local Government, and the adjoining tracts, no less obviously the proper concern of the central Government. With the annexation of the Punjab, both had fallen automatically to the Punjab Government. Throughout the latter half of the last century the Government of India, chafing increasingly at the interposition of the Punjab Government between themselves and the conduct of political business on this vital section of India land frontier, strove to devise some means of getting the political control of the tribes directly into their own hands. Scheme after scheme was evolved, discussed, discarded. Yet where was the difficulty ? The problem was pressing, for the all-India aspect of the trans-frontier question deepened with every successive frontier expedition and at every successive stage in our relations with Afghanistan. And a stroke of the pen surely could have brought about the obvious solution—the assignment of the political control of the tracts to the Government of India and the assignment of the administration of the districts to the Punjab Government. What then paralysed the Government of India through all those years of increasing anxiety over the North-West Frontier problem and of increasing embarrassment at their inability to fulfil their indivisible responsibility for it by taking it directly into their own hands ? One thing and one thing only. The conclusion from which they struggled in vain to escape every time they returned to the problem—that judged by the test of the security of the districts, judged by the test of the controllability of the tribes, tribal tracts and districts form one organic whole, that can only be properly managed if both parts are placed under one and the same authority. For note the corollary. The Government of India could only assume direct control of the tracts if they cumbered themselves at the same time with the administration of the districts.

10. As far back as 1877 Lord Lytton had propounded the inseparability of

districts and tracts and the necessity for the Government of India assuming direct control over the latter, and had pointed to the dismemberment of the Punjab as the only solution. Not until 1901 were the five frontier districts transferred from the Punjab to a minor administration directly subordinate to the Government of India, and the North-West Frontier Province created, simply and solely to secure for the Government of India direct control over the tracts. The problem before the creation of the province was : Is it possible for the Government of India to secure the conduct of external affairs on the frontier without dismembering the Punjab ? The problem that confronts us now is the reverse. Without impairing the conduct of external affairs by the Government of India, is it possible (and if so, expedient) to re-amalgamate the districts with the Punjab ?

11. At the very outset of our enquiry therefore we are faced with the question

which proved such a stumbling block to Sir Mackworth Young's assertion of the inseparability of tracts and districts. successive Viceroys down to the time of Lord Curzon. Can the administration of the districts be separated from the control of the tracts, and if not, why not ? Some of us—even some among those of us, who now constitute the Majority on our Committee—entered upon our labours in the belief that the answer could not be otherwise than simple, and that quite apart from the expediency of the re-amalgamation of the districts with the Punjab, their separation from the tracts could present no insuperable difficulties. But the closer we got to frontier realities, the greater did those difficulties loom. It

is not easy to present those difficulties in a clear and concise form to those who have no first-hand experience of them. Perhaps the best presentment which we have come across is that put forward by Sir Mackworth Young. In quoting it we may expose ourselves to the charge of plagiarism. On the other hand, we may claim a lack of prejudice, for Sir Mackworth Young was the protagonist of the Punjab against its dismemberment, and his authority has perhaps been more freely cited by advocates of re-amalgamation with the Punjab than any other. His words are these :—

“The duty of maintaining friendly relations with, and control over, the trans-frontier tribes is inseparable from that of managing the tracts within the British border.”—The grounds for this statement are so well put by Mr. Merk that I reproduce his words* :

‘Thousands of our subjects are constantly visiting independent territory many thousands of the hillmen regularly migrate to our districts, whole clans live for half the year on this and for the other half of the year on that side of the border ; where the residents within and without the frontier are not men of the same clan or of the same tribe, they are connected by the intimate ties of common race, of marriage, neighbourhood and of an association, territorial and social which has endured for many generations. In short, there is no impassable gap or gulf, difficult to cross, between British and independent territory ; the frontier is in reality only an arbitrary line drawn through the limits of a more or less homogenous population. That being so, it will be readily understood what an infinity of questions, of disputes, and disagreements of business arises from the daily intercourse of these people. This business must be settled promptly and with justice, or the peace of the border is endangered ; it is business which is quite distinct from the Imperial questions in which British and independent interests, as such, are arrayed against each other. And upon the successful administration of the daily business of the frontier it chiefly depends whether, under ordinary circumstances, the border is heard of or not.’

“There are tracts in regard to which separate political charges have been framed to which the above remarks apply only to a minor degree. But they apply with special force to the whole of the Peshawar and Kohat border from the Malakand to the Kurram, including the Khyber Pass and the Afridi and Orakzai tribes†. The political management of the last-named tribes is closely bound up with the management of the British border and, although there are tracts in regard to which the position is less clear, this is more or less true all along the border. And Mr. Merk touches the point when he says that the business which arises in consequence of the close connection between the people on either side of the border is quite distinct from the Imperial questions in which British and independent interests are arrayed against each other. There are numerous references in regard to such matters in which a decision of the local Government may be called for, but a pronouncement of the Foreign Department of the Government of India would be unnecessary and out of place. In short, a great deal of our management of the trans-border tribes is carried on in the daily course of border administration, and it is not expedient that it should be magnified into a Foreign Office question. On the other hand, the separation of the trans-frontier from the cis-frontier aspect of many questions now disposed of by our frontier officers is impossible. This was fully realized by Lord Lytton when proposing the creation of a Frontier Chief Commissionership, in the words : ‘Mixed up as are the tribes within and beyond our border, he (the Chief Commissioner) must evidently have charge of the immediate frontier districts as well as of all our trans-frontier relations. I confidently affirm the inseparable connection of portions of British territory

* Mr. Merk's opening words which Sir Mackworth omits, are worth reproduction :—

“The population on either side of the boundary line are as closely interwoven and intermingled, socially commercially, and in all matters of everybody life, as are the inhabitants of Nancy and Metz or for the matter of that the people of Berwickshire and Northumberland.”

† It should be noted that Sir Mackworth was here concerned with the old Peshawar Division only, in connection with a proposal to place the Commissioner, Peshawar, under the Government of India in tribal matters. But his remarks apply with equal force to the Bannu and Dera Ismail Khan border from the Kurram to the Dera Ghazi Khan border.

with trans-frontier tracts and the necessity of entrusting the control of both to the same local officer.' ”

Sir Mackworth wrote this while the fate of the frontier districts still hung in the balance. But even after the decision had gone against him he was engaged—“with anything but a light heart” as he pathetically remarked—in working out a scheme for the dismemberment of the districts from the Punjab, he strenuously advocated on the same grounds the necessity for including in the frontier province the Hazara district which Lord Curzon desired to exclude. “Its exclusion”, he wrote by the hand of his Chief Secretary, “would clearly be an anomaly., Political questions connected with the Black Mountain tribes in particular contain elements of trouble that might break out at any time into active disturbance. . . . But the Black Mountain tribes. . . are not the only factors that require to be considered. . . . The relations of the Swati clans. . . with the Mansehra Tashil, those of the Hassanzai and Akazai with Agror, and those of the Nawab of Amb and Tanaul and his subjects with the Mansehra, Abbottabad and Haripur Tahsils of the Hazara District, are so closely intermingled that they cannot be separated. Similarly, the politics of the tribes of the Lower Indus Valley. . . are intimately connected with Hazara. . . . The authority that rules in Hazara must also have political control over the independent tribes adjoining the Hazara border.”

12. The ultimate object of our whole frontier policy is the security of India. The doctrine of inseparability restated. The immediate object of our North-West Frontier policy is to control the transfrontier tribes as to secure lives and property in our frontier Districts. How do we exercise the measure of control that we now have, and how do we hope to improve it? One way no doubt is by occupation and administration. But the occupation of the whole of Independent Territory, even if advisable, would require years of military operations and involve expenditure that we cannot dream of in the present state of India's finances. Some idea of its magnitude may be drawn from the cost of the present partial occupation of Waziristan, an operation which, after two years of fighting and great loss in men and material, is still far from effective as a means of preventing raids. Three tracts it is true, Kurram, Lower Swat and Daur, have welcomed our occupation. The vast majority of the tribes would not. They have always been independent and are determined so to remain. Even Akbar abandoned the task of conquering the Afridis and found it easier to control them by dominating their cultivation in the plains. This brings us to the other alternative: to leave the tribes their independence and to establish with them such friendly relations as will minimise the possibilities of disturbance and of loss to the British districts adjoining them. One means to this end is the tribal allowances, which Sir Dennis Fitzpatrick described as “the only system to adopt unless we are prepared to go in for a series of Geok Teppes” or in other words a ruthless Forward Policy. Historically these allowances are a legacy handed down from the Afghans and Sikhs; and they have grown from time to time, partly in compensation for ancient tribal rights (*e.g.*, the taking of tolls) we have extinguished; partly in return for concessions (*e.g.*, the construction of roads) that we have acquired; partly in payment for services (*e.g.*, the policing of tribal country) we have demanded. In practice they serve above all as a retaining fee for the periodical attendance of the tribal community in the districts to settle up cases and as a lever to enforce the payment of claims. For note that it is within the district that the political authority ordinarily acquires and exercises his control. In Independent Territory—as distinct of course from the few areas in actual occupation—he cannot even enter, unless it is cut by a road built under agreement with the tribes; even then he cannot set foot beyond the road itself. His one great hold over the tribes lies in their economic dependence on the districts. Tribal existence in many cases is barely possible without access to British Territory, and economic stress drives most of the tribes in the winter to the districts to work as labourers, to cultivate lands and to trade in wood, skins, herbs and such other produce as their inhospitable country affords. Barred from Independent Territory himself, it is in the districts that the political authority consolidates his resources of control. It is in the districts that he acquires most of his knowledge of the tribal leaders and gets most of his openings for building up his personal influence. And when things go wrong and the tribe becomes unfriendly, it is in and through the

districts—more especially by debarring tribesmen from access to the districts, and by seizing them when they are to be found in the districts—that he is able to bring an unfriendly tribe to book*. What then would be the result of separation? If we place an Agent to the Governor-General in charge of the tribal tracts alone and divest him of all authority in the districts, we deprive him of his only peaceful means of controlling the tribes. They will be at times under one master and at times under another, in a position to play off one against the other—as only trans-frontier tribesmen can—with countless chances of creating friction between the two. And the inevitable result will be that in the general confusion such peaceful control as we now exercise will be gone, and we shall be driven perforce into the adoption of a Forward Policy of military domination. And if it is urged that these dangers of friction are exaggerated and that differences of opinion between Deputy Commissioners and Political Agents are at present infrequent, the answer is two-fold: first, the mere presence of the common authority, the Chief Commissioner, is operating all the time—more often unconsciously and imperceptibly perhaps than otherwise—to prevent those differences arising and to harmonize the control of the agencies with the administration of the districts; and second, it is not to the actual number of cases that we must look but to their nature and inherent gravity, for questions of peace and war hang on the decision.† Take away the common authority, have separate cadres for tracts and districts, and the difference in point of view will be crystallized into one perpetual antagonism. And it is the districts that will suffer. As matters now stand, the Chief Commissioner holds the balance between the divergent interests of districts and tracts, and knowing the needs and claims of both can represent both to the Government of India.

13. There is yet another frontier axiom to be stated: the inseparability of the

various parts of the Pathan transfrontier. The inseparability of the whole Pathan transfrontier. If this has bulked less largely in frontier controversies, it is not because it has less validity than the inseparability of trans and cis-frontier, but simply because it has never been seriously questioned by anybody. It is transparently obvious to every frontier officer and to every reader of frontier history. To the former it is brought home by the day's routine. The latter needs no further proof than the events of 1897 when the whole transfrontier was ablaze from Wano to Buner; or the 3rd Afghan War which set the whole transfrontier agog from Wano beyond the Pathan country into Chitral. That Mahsud links up with Wazir; Wazir with Zaimusht; Zaimusht with Orakzai; Orakzai with Afridi; Afridi with Mohmand; Mohmand with the tribes of Bajaur; Bajaur with Dir; Dir with Swat; Swat with Buner; Buner with the Indus Valley and the Indus Valley with the Black Mountain—all this is so obvious to the frontier officer that he does not pause in his advocacy of this or that solution of the frontier problem to enlarge upon it.

14. Few Indian problems have aroused greater or more persistent controversy

than the frontier problem. No class of Indian official has entered the arena of public controversy with views more outspoken and independent than the frontier officer. Yet, whether battling in the cause of a forward policy or ranged against it, whether arguing for continued control of the tribes through the Punjab or pressing for the direct control of the Government of India, whether espousing or combating this ingenious compromise or that—all frontier experts, from frontier officer to

* Under Section 21 of the Frontier Crimes Regulation:—

In the event of any frontier tribe, or of any section or members of such tribe, acting in a hostile or unfriendly manner towards the British Government or towards persons residing within British India, the Deputy Commissioner may, with the previous sanction of the Commissioner, Blockade of hostile or unfriendly tribe.

by order in writing direct:—

(a) the seizure, wherever they may be found, of all or any of the members of such tribe and of all or any property belonging to them or any of them; (b) the detention in safe custody of any person or property so seized; and (c) the confiscation of any such property; and may, with the like sanction, by public proclamation; (d) debar all or any members of the tribe from all access into British India; and (e) prohibit all or any persons within the limits of British India from all intercourse or communication of any kind whatsoever or of any specified kind or kinds, with such tribe or any section or members thereof."

† Cf. Sir John Mailey (Volume I, page 135), Mr. S. E. Pears (Volume I, pages 763 and 781); and Appendix 7 (Volume III, page 27).

Lieutenant-Governor and Viceroy, have been unanimous that the frontier tracts and frontier districts form one organic whole which can only be properly managed if both parts are in the hands of one centralising and controlling authority on the frontier itself.* It is a healthy instinct to bring expert opinion to the bar from time to time, especially when it stands in the way of an alternative solution of a difficult problem. But when, amid an amazing diversity of opinion, held at all stages of a constantly recurring and burning controversy by experts of every conceivable school of thought, bent one and all on pressing home his own particular solution of a vital problem, we find one crucial point, not merely assumed but questioned, scrutinized and reaffirmed—even when its negation would further the particular solution advanced—then scepticism is surely silenced. However difficult that point may be to reconcile with a layman's predilections or *a priori* ideas, even the most impractical theorist is compelled to accept it. For mark how the separability of transfrontier control from frontier district administration has been brought under review at the many stages in this ancient controversy and how it would have availed both disputants to prove it possible. Take 1877, when Lord Lytton before the creation of transfrontier agencies propounded his famous scheme for placing the whole frontier from Chitral to Mekran directly under the Government of India. Take 1879, when the first transfrontier agency, the Khyber, was started during the second Afghan War. Take the years 1892 to 1896, which saw the addition of the Kurram, Malakand, Wana and Tochi transfrontier agencies. From the time of Lord Lytton, when all transfrontier affairs were conducted from within the districts, to the time of Lord Curzon, when the five transfrontier agencies were in being, not a single authority, however much exposed to the temptation of bolstering up his own particular contention, was able to advance the argument of the separability of tracts from districts. Indeed, from the time of Lord Lytton to the time of Lord Curzon there would have been no controversy at all, had it been possible to sustain this argument. It was the transfrontier control, and not the districts, that the Government of India sought to secure. It was the districts, and not the transfrontier control, that the Punjab Government sought to retain. Both could have got what they wanted, had they been able to prove the separability of districts and tracts. Both were forced to admit that districts and tracts were two inseparable parts of one organic and indivisible whole.

15. And it is the same to-day. Undeterred by the unanimity of all past expert evidence, we ourselves scrutinized afresh the validity of the expert assertion of the inseparability of districts and tracts. Every expert witness we examined reasserted that proposition† and supported it by arguments. Every single one when asked by us to assume the re-amalgamation of the districts with the Punjab, declared that in that event the tracts must go back to the Punjab with them. Not that we contented ourselves with the cross-examination of official witnesses on this crucial point. We were at pains to test the official verdict by the view and arguments of almost all the non-official witnesses

* E.g. Lord Lytton:—"I confidently affirm the inseparable connection of portions of British territory with transfrontier tracts and the necessity of entrusting the control of both to the same local officer." Sir Alfred Lyall:—"It is an established principle from Peshawar to Karachi that the frontier can only be managed properly if both sides of it are in the hands of the same British authority." Lord Lansdowne:—"All the circumstances seem to point to the creation of a single frontier charge entrusted to the management of a single officer under the immediate direction of the Government of India." Lord Elgin:—"The Commissioner and the Government of India cannot deal thoroughly and exclusively with external relations with the tribes without including some administrative work within our border." Sir F. Cunningham:—"It would be a grievous mistake to divorce the Deputy Commissioner from the management of the border clans who march with his district." Lord Curzon:—"The impossibility of severing the external relations of the tribes from their internal administration and of separating hill politics from plain politics."

† E.g. Nawab Sir Abdul Qayyum:—"Separation is neither advisable nor practicable." (Volume I page 2.) Wazirzada Mohammad Akram Khan:—"Our interests are so common that we can never be separated." (Volume I, page 35.) Sir John Maffey:—"I do not think there is anybody who has any real experience, official or non-official, who would think it feasible to separate these two component elements." (Volume I, page 121.) Mr. P. J. G. Pipon:—"To have one authority administering the five districts of British India and independent authority controlling the trans-border tracts would be a disaster of the first magnitude." (Volume I, page 219.) Mr. S. E. Pears:—"Whatever the grounds may be which are believed to support the proposed separation, those grounds do not include the most vital ground of all, namely the improvement of the defensibility of the North-West Frontier." (Volume I, page 755.) Sir John Maynard:—"It is quite impossible to separate the administration of the settled British districts from the management of the tribes. The two must go together." (Volume II, page 483.)

that appeared before us. Here indeed unanimity was lacking. while few residents in the towns could see any difficulty in the separation, few residents on the border could contemplate the possibility of it. Indeed, the more intimate & witness's knowledge of the problem and the closer his everyday association with the actual border, the nearer his approximation to the reasoned conclusion of the expert that the separation of districts and tracts is impracticable.* And what was adduced before us on the opposite side? For the most part blind assertions of the expediency of separation because the districts suffered from connection with the tracts†—assertions that would be valid enough, were it in our power to reshape the map or configuration of India and give other districts, let us say from Madras or Bombay, a turn in the unpleasant duty of sentry-go on the frontier. and the nearest approach to a reasoned argument we elicited was an appeal to the analogy of the separation of the administration of British districts from the administration of adjoining Indian States.‡ Perhaps nothing could more strikingly illustrate the validity of the expert argument than this despairing appeal of the non-experts to a transparently false analogy. In the Indian States there is administration. Except in parts of the Kurram and Malakand and along the fringes of the Tochi road, there is no administration in the tracts at all.

16. The conclusion forced by the sheer process of reasoning on the Majority of our Committee is this. In existing conditions it is not merely inexpedient, for

Our finding.

all practical purposes it is impossible to separate the districts and tracts. Under two conditions and two conditions only, can we conceive the possibility of a complete divorce between the administration of the districts and the control of the tracts. And these two conditions cover the two extremes of possible frontier policy. First, a rigid Close Border Policy, under which all transfrontier tribes would be absolutely excluded, as by a China wall, from all intercourse with the districts whatever; second, a thorough-going Forward Policy under which the transfrontier tracts would be completely dominated and the whole area up to the Afghan frontier brought under our definite administration. To us the one policy seems almost as much out of the question to-day as the other, though for very different reasons. To place two and a half millions of transfrontier people, linked to the cis-frontier by ties of blood and economic necessity, beyond the pale, some thirty years after exclusive responsibility for them has been publicly secured by international pact, is a course which no civilized Power and no Power with any political foresight could adopt. And if an extreme Close Border Policy is unthinkable, at the present juncture an extreme Forward Policy is hardly less so. Whatever the arguments that may be adduced in its favour—and we are not concerned here to weigh them—they are overwhelmed for the moment by the crushing weight of financial stringency.

SECOND TERM OF REFERENCE.

“(ii) *Whether, if such separation is expedient, it is expedient to re-amalgamate the five districts with the Punjab.*”

17. As we have decided the first term of reference in the negative, the
Finding. second term of reference does not arise.

* Cf., for instance the evidence of Khan Bahadur Haji Gulam Haider Khan, etc., (Volume I, page 202); the Hon'ble Major Muhammad Akbar Khan, C.I.E., (Volume I, page 205); Khan Bahadur Mian Musharraf Shah (Volume I, page 313); Mr. Ali Haider Shah, etc., (Volume I, page 354) of Peshawar; Pir Imran Shah, etc., (Volume I, page 409); Khan Buz Muhammad Khan (Volume I, page 461); Khan Bahadur S. M. Nauroz Khan, etc., (Volume I, page 475) of Kohat; Khan Bahadur Sher Ali Khan, etc., (Volume I, page 595) of Bannu; Maulvi Nur Baksh, etc., (Volume I, page 626); Nawab Alladad Khan (Volume I, page 737); Major Nawab Ahmad Nawaz Khan (Volume I, page 799); Khan Bahadur Mahrhan Khan, etc., (Volume I, page 827); Nawabzada Abdurrahman Khan, etc., (Volume I, page 867) of Dera Ismail Khan; Khan Bahadur Muhammad Akbar Khan, etc., (Volume II, page 183); and Wali Muhammad Khan, etc., (Volume II, page 313) of Hazara.

† *Vide* Hindu witnesses *passim*, with the notable exceptions of Rai Sahib Ishwar Das of Kohat (Volume I, page 422); Rai Sahib Diwan Chand of Abbottabad (Volume II, page 153); the Hon'ble Lala Harkishan Lal of Lahore (Volume II, page 528); Rai Sahib Chowdhri Roohi Ram (Volume I, page 743); Lala Ghanishan Das (Volume I, page 753); and Rai Bahadur Diwan Jagannath (Volume I, page 839) of Dera Ismail Khan.

‡ *Vide* in particular Rai Sahib Thukar Datta, whose memorandum and evidence constitute the most elaborate argument for re-amalgamation presented to us. (Volume II, page 225.)

THIRD TERM OF REFERENCE. PART I.

“(iii) *Whether if such separation is not expedient, it is expedient (a) to retain the whole province directly under the Government of India.*”

18. Under the first half of this third term of reference we are implicitly, if not explicitly, invited to consider the possibility of the re-amalgamation of the frontier districts with the Punjab, there inseparability from the frontier tracts notwithstanding. If this necessarily meant control of the transfrontier by the Punjab Government, we should have had no hesitation in deciding summarily against it. For not only is the transfrontier in itself a big factor in India's foreign policy, it is inseparably linked up with our relations with Afghanistan; and both these factors in our foreign policy have taken on an added importance with the emergence of Afghanistan as an independent nation into the arena of world politics. Whatever the differences between us otherwise, all members of the Committee are agreed that the management of external affairs must vest in the Central Government. And though as matters now stand, we conceive that the Government of India—whatever the difficulties and drawbacks inherent in such an arrangement—might still conduct transfrontier business through the medium of a major Local Government, we all recognise that the difficulties and drawbacks would increase with the development of the General Reforms Scheme, until with the next definite advance in that scheme, such an arrangement would become unworkable altogether. For a Central Government to entrust responsibility for the conduct of external affairs on its critical land frontier to an autonomous Local Government would be a violation of all constitutional theory and practice.*

19. To ourselves therefore two propositions appeared established:—first the inseparability of districts and tracts; second, the necessity for the direct control of the tracts by the Government of India. Old compromises re-examined and rejected.

Hence, quite apart from the unwillingness of the bulk of the North-West Frontier population to merge itself in the Punjab, and quite apart from the unwillingness of the Punjab to receive it back, logic seemed to force us to the conclusion that the retransfer of the districts to the Punjab is impossible. It was only our desire to carry our two dissenting colleagues along with us into an unbiassed examination of the best form of administration for the frontier districts that prevented us from accepting that conclusion as final. In our anxiety to consider with them that crucial question with an open mind and on its own merits, we laboriously explored at their invitation every conceivable avenue of escape from the logical conclusion that, given the inseparability of the two parts and the impossibility of entrusting one of them to the Punjab Government, it is impossible to entrust to the Punjab Government the other. With them we patiently traversed the whole ground covered in the past. We unearthed with them every compromise that had been considered—and rejected—by past students of the problem. In particular we debated long and patiently the old suggestion that, while retaining a central unifying authority in Peshawar, we should endeavour to combine the control of external affairs by the Central Government with the internal administration of a local Government, by placing the Chief Commissioner directly under the Government of India for external affairs and under the Punjab Government for the internal administration. But like our predecessors† we have been compelled to recognise the practical impossibility of drawing a hard and fast line between the internal and external aspects of even workaday matters on the frontier; the consequent difficulty of partitioning frontier business into two water-tight compartments, one under the Punjab Government and the other under the Government of India; the delay, the uncertainty, the friction and the confusion that would result from the referring of questions to the Government of India,—some through the Punjab Government, some direct, and some through both channels at one and the same time; the obvious embarrassment

* The constitutional position of Alsace-Lorraine in the old German Empire is an interesting and instructive parallel.

† E.g., Sir Charles Aitchison:—“It would probably be difficult to devise a scheme more full of the seed of future misunderstanding, confusion, and divided responsibility.” Sir Robert Egerton:—“It is almost impossible to exaggerate the inconvenience which might arise from this division of authority. It would have the worst effect upon the internal administration of the frontier districts.”

of an officer serving two masters ; and the danger of placing anybody, even a select-ed officer of the rank of a Chief Commissioner, in a position to act as arbiter—for this is what it would in practice amount to—between the supreme and a subordinate Government, and even to play one Government off against another.

20. Having traversed this and every other compromise that had cropped up in the past history of the case, our colleagues in the end broke entirely new ground.

The Minority's scheme stated.

Their final proposition is one that has never occurred to anybody before. It is this. Hand over the districts and such transfrontier areas as are to-day under the control of the various deputy commissioners to the Punjab Government ; let the Government of India exercise direct control over the remainder, namely, the existing transfrontier agencies. Our colleagues claim that this scheme, while providing for the re-amalgamation of the districts with the Punjab (which to them is not merely the chief attraction, but the *a priori* assumption on which the whole edifice has been based), provides for the control by the Government of India over what our colleagues consider the only part of the transfrontier that counts in external affairs. And they claim that it recognizes the inseparability of the districts and tracts in so far as such inseparability is recognized in actual existing conditions, and that it entails the minimum of disturbance in present arrangements, seeing that the agencies are already separated from the districts.

21. Now if this simple solution were really feasible, it would be strange indeed

Criticized.

that it had never occurred to any of the expert minds that have bent themselves to the frontier problem*. For the same five districts and the same five agencies were in being at the time of Lord Curzon and Sir Mackworth Young. Lord Curzon wanted to secure transfer of the transborder control for the Government of India ; Sir Mackworth Young wanted to retain the districts for the Punjab. If both could have secured their ends by this simple arrangement, why in the name of wonderment did neither think of it ? For the simple reason surely that it violates the two fundamental canons of frontier management. It violates the inseparability of the districts and the tracts ; it violates the inseparability of the transfrontier as a whole. Our colleagues have sought to minimize their breaches of these two canons. They urge that it is merely the outlying fringe of transfrontier territory inseparably attached to the districts that they propose to detach from the direct control of the Government of India. But the word 'fringe' is a strange word to apply to territories occupied by tribes embracing 47 per cent. of the whole transfrontier population, and including such powerful and important tribes as the Mohmands and Orakzais. And they argue apparently further that just because the tribes occupying this so-called fringe are manifestly inseparable from the districts, their external importance must be so negligible that their control need not vest in the Government of India. The line of argument is difficult to follow ; the conclusion at any rate has no foundation in fact. From an external point of view these tribes are no whit less important than any in the agencies. The Orakzais for instance occupy Tirah jointly with the Afridis and the politics of the two are inseparably interlinked. Yet under our colleagues' scheme the Orakzai half of Tirah would be controlled by the Punjab Government, and the Afridi half by the Government of India. Or take the Mohmands, whose politics link up with Afridi politics on the south and those of Bajaur on the north. Not only do the Mohmands occupy independent territory, they spill over into British territory on the one side and spill over into Afghanistan on the other ; indeed it is questionable whether it is in Afghanistan that the bulk of this powerful tribe resides or within our own sphere of influence. The Mohmands are thus a concrete example of the inseparability of tracts and districts ; of the inseparability of the transfrontier as a whole ; and of its inseparability from India's most intimate foreign relations. Yet this is another tribe whom our colleagues would place under the control of a subordinate Government.

* The only approach to it we have been able to discover is a tentative suggestion by Sir F. D. Cunningham in 1898 "to give the Punjab Government real authority, and power to issue final orders in respect to affairs with clans on the immediate border fringe, and in all but matters likely to lead to serious results or to hostilities on a large scale." He did not develop his scheme, as he foresaw that it would be ruled out as "retrograde" (and this a quarter of a century ago!) and merely used it to lead up to his advocacy of a separate province. But as he was throughout concerned to prevent "the divorce of the Deputy Commissioner from the management of the border clans who march with his district," it would of course have included many tribes, notably the Afridis, then as now under the agencies, and it bears therefore only a superficial resemblance to the Minority's proposal. Sir Mackworth Young dismissed it with the caustic remark that he had no observations to offer. Lord Curzon ignored it altogether.

Or take Waziristan : the Mahsuds and the bulk of the Wazirs our colleagues would leave to the Central Government ; the Bhattanis (now under the Deputy Commissioners, Bannu and Dera Ismail Khan) and some of the Wazir clans (now under the Deputy Commissioner, Bannu) would be handed over to the Punjab. Yet the Wazir clans are so interlaced ; the Mahsuds and Bhattanis and Wazirs are so interlaced ; the whole congeries of clans in Waziristan is so interlaced not merely among themselves but with the Bannu and Dera Ismail Khan districts, that not content with the ultimate unifying authority of the Chief Commissioner, the Government of India have for years maintained another unifying authority on the spot subordinate to him—the Resident in Waziristan—to unify the external politics in this jumble of districts and agencies.* To ourselves the ingenious scheme of the Minority is transparently unworkable. It is open, and that in a greater degree, to every objection that has been substantiated against every other compromise that engaged serious consideration in the controversies of the past. To attempt any division of responsibility in the different parts of the transfrontier area between the Central and a major Local Government would paralyse the management of India's most vital frontier affairs. It beggars the imagination to picture the friction, the confusion, the chaos, the paralysis of all action that would supervene under our colleagues' scheme not merely over the local officers (who would *ex hypothesi* belong to the two absolutely separate cadres), not merely over the high representatives of the two Governments on the frontier, but over the two Governments themselves. One thing is quite clear. Any attempt at a rigid separation of agencies from districts such as the Minority contemplates, would result by the force of administrative gravity in the adoption, possibly unconscious but none the less irresistible, of a Forward Policy in the agencies. For, if the officers in the agencies were deprived of the exercise of that control within the districts which the present subordination of both districts and agencies to the Chief Commissioner provides, they would be driven to seek escape from impotence by acquiring an authority within the agencies they do not now possess. This they could only do by enlarging the area of our military occupation and direct administration. We said before and we say now that there is no inseparability between the districts and tracts if the tracts are dominated, administered and converted into districts. Unless and until India is prepared to face the implications of a Forward Policy and to enforce it, districts and tracts must remain an inseparable whole under a unifying authority on the spot in direct subordination to the Central Government.

22. We pause to pay our tribute to the ingenuity with which our colleagues have attempted to reconcile the re-amalgamation of the districts with the Punjab (to them the be-all and the end-all of the whole business) with a recognition half-hearted though it be—of the inseparability of districts and tracts, on which the fulfilment of all-India interests depends. That they have failed is no matter for surprise, for they have attempted to reconcile irreconcilables. We have watched with admiration their patience in probing the wide field of expert evidence past and present ; their assiduity in plucking from the most unpromising context a word here and a sentence there that seemed to serve their purpose ; and the skill with which they have joined the broken fragments into a ingenious mosaic of plausibility. We shall be as much surprised as disappointed if our admiration of their patience, assiduity and skill, is not enhanced on reading their studied minute of dissent. But the issues on the frontier are fraught with consequences to India too vast for us to dare to follow them in seeking illusory refuge from the facts of the frontier in an intellectual *tour de force*. It is a mere coincidence, we wonder, that our Committee should have split up into a Minority from the south of India and into

* In advocating their scheme before us, our colleagues made great play with the fact that the Resident in Waziristan is at present in certain matters not subordinate to the Chief Commissioner but in direct correspondence with the Government of India, and adduced this as an argument for the separability of the two. But they overlook the fact that Waziristan is still the scene of military operations and that when military operations are in progress the chief military authority on the spot becomes automatically the Chief Political Officer, with the Resident as his Chief Political Adviser, to the temporary extinction of the Chief Commissioner. Moreover they overlook the fact that even in present abnormal conditions the Resident remains under the Chief Commissioner to unify the external aspects of the districts with the transfrontier.

a Majority who live or have served in the north? From a man of northern India not even the rosiest coloured spectacles can disguise the grimness of the frontier or its ever-present peril to all-India. To those who have living experience of the North-West Frontier any compromising with all-India interests on this vital land-frontier of India, any subordination of those paramount interests to the interests, real or imaginary, of a section of the population in the North-West Frontier Province, is inconceivable. Unless and until we definitely advance our administration up to the Afghan frontier—on the advisability or reverse of which it is not for us to express an opinion—we are convinced that frontier districts and trans-frontier tracts, whether regarded from the point of view of the security of the districts or from the point of view of the security of India, form an inseparable whole; that the all-India interests in the transfrontier are so paramount that its control must vest directly in the Central Government, and that it is therefore inexpedient—we make bold to say impossible—to transfer the administration of the districts from the Government of India to any major Local Government.

23. Let us now examine the foundations on which our colleagues have built up their scheme. They argue (at least so we understand) that, come what may, the re-amalgamation of the districts with the Punjab is essential, for four main reasons:—

The Minority's argument: in favour of re-amalgamation.

- (a) the separate frontier province is an experiment that has proved a failure;
- (b) its continuance would constitute a political danger;
- (c) it involves a financial drain on India;
- (d) the defects in the administration of the districts are so grave that they cannot be remedied except by re-amalgamation with the Punjab.

24. We shall deal with each point in detail. At the outset our colleagues laid stress on what they regard as the fact that the Secretary of State in 1901 himself looked upon the frontier province as experimental. But as a matter of fact the necessity for the creation of a separate province was accepted by the Secretary of State as established. What he regarded as experimental were merely the details of the scheme for the civil administration that Lord Curzon propounded.*

The record of the Frontier Province in its external relations.

Now the reason for the creation of the Frontier Province was the more effective management of transfrontier affairs under the direct control of the Government of India.† It was the necessity for the better safeguarding of all-India interests on the frontier, and this alone, that brought the Frontier Province into being. What then has been its record here? During the first thirteen years of its existence, notwithstanding the increased complexities introduced by the rise in the price of necessities of life, with the consequent aggravation of the economic stringency in the transfrontier that is at the bottom of half of our frontier trouble, and by the great influx of arms of precision into the transfrontier especially from the Persian Gulf, there were three expeditions only:—a short expedition to bring the Mahsud blockade instituted under the Punjab régime to a close; a 'week-end war' in the Afridi country in 1908; a sharp and salutary expedition against the Mohmands a month later. This is a contrast indeed to the record of 55 expeditions during the 52 years of the frontier stewardship of the Punjab Government, or one every twelve months, culminating in the general conflagration of 1897‡. But the real test was to come. At the outbreak of the Great War and on the entry of Turkey on the side of our enemies, he would have been a bold student of frontier history

* Secretary of State's Despatch of the 20th September 1901: "You forward for my sanction a detailed scheme for the administration of the new Frontier Province, the creation of which was generally approved in my despatch No. 140 (Political) of the 29th December last).

2. The scheme has been drawn up with great care, and I am prepared to accord to it the general approval for which Your Excellency's Government ask.

3. At the same time it can only be regarded at present as experimental, and in some respects the proposals appear to be unusual. I refer more particularly to the combination, in the office of Revenue Commissioner of the duties of Revenue and Financial Secretary with those of Divisional Commissioner."

† Secretary of State's Despatch of the 5th August 1898: "His Majesty's Government are of opinion that the present arrangements are not satisfactory and that it is desirable that the conduct of external relations with the tribes on the frontier should be more directly than heretofore under the control and supervision of the Government of India."

‡ Cf. Imperial Gazetteer, North-West Frontier Province, pages 80-2.

(even though his study went no further back than 1897) who ventured to predict anything but one vast conflagration from one end of the frontier to the other. Even a local frontier rising is a serious business at all times. A general rising during the Great War, when India was bled white of troops and beginning to strain every nerve in the cause of the Empire, would have involved a crisis of the first magnitude, and might have led to international complications of the gravest character. Yet despite the machinations of Turkish, German and other foreign emissaries, who moved freely among the tribes, preaching fanaticism, and lavishing gold, arms and promises of support, the frontier as a whole was kept quiet. Such trouble as arose under the impetus of these external agents was isolated, thanks to the firm administration of the frontier authorities and the co-operation of His Majesty the Amir Habibullah Khan who, having publicly declared his neutrality in the war, impressed on the Government of India again and again the necessity for avoiding any provocative action on the frontier that might embarrass him in fulfilling his pledge. But this is only one half of the picture. If India was shielded from imminent perils arising from the Great War, it was her stalwart frontier population whom she had in a large measure to thank for keeping those perils from her. With the assassination of His Majesty the Amir Habibullah Khan, the whole position on the frontier changed. The unprovoked aggression on India that followed unsettled two great blocks of the frontier, the Afridi country and Waziristan. Even after the Afghan invasion had been thrown back, these two areas remained gravely disturbed, and the inevitable result of the breach in our relations with the Afridis, and the Wazirs and Mahsuds of Waziristan, was a succession of raids on our unfortunate districts unparalleled even on this blood-stained frontier. But by skilful management the Frontier Administration succeeded in bringing the Afridis, to a satisfactory settlement without a punitive expedition. The case was different with the Mahsuds and Wazirs. In Waziristan military operations are still in progress as we write; here we are still contending with the aftermath of an external war forced upon us by Afghan aggression on India. And there is to ourselves a strange irony in the suggestion that India's frontier ills can be remedied by an amalgamation with the Punjab, seeing that the events in the Punjab of 1919 and the reports that reached Afghanistan that the Punjab was in open revolution were among the contributory causes of that war.

25. But the very decrease of frontier expeditions has been made one of the

grounds of complaint against the Frontier administration. Increase of crime and especially trans-frontier. Granted, it is said, that

all-India interests have been thereby secured, this has only been at the expense of the security of the frontier districts; if the tribes had been punished more, the districts would have suffered less. And we are asked to look to the grave increase of crime for proof. Now, if the total volume of crime were any criterion, the records of the Frontier Province would be clean enough; for there was a decrease up to the year of the Afghan War. But it is very different when we turn to "serious crime"—murder, dacoity, robbery and kidnapping. For the first seven years of the Frontier Province there was a decrease: then came a rise, and the province shows a grave increase in serious crime on the whole during the last 20 years. But so does nearly every province in India.* It is not, however, in the total volume of crime or even of "serious crime" that the indictment against the frontier administration centres,

*Comparative statement of serious crimes (murder, dacoity, robbery, kidnapping) in the North-West Frontier Province and other Provinces.

—	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920
Punjab ..	831	826	789	818	760	709	917	832	876	1,052	1,197	1,348	1,301	1,398	1,174	1,018	909	1,185	1,138
United Provinces ..	1,526	1,595	1,421	2,011	..	2,017	2,509	1,984	1,848	2,160	2,150	2,211	2,695	2,738	2,706	2,491	3,308	..	2,669
Bombay ..	1,538	974	842	754	834	..	893	831	847	879	994	971	863	934	860	833	991	1,372	1,189
Madras ..	1,649	1,472	1,663	1,929	1,814	1,930	1,944	2,027	1,911	2,041	2,257	2,254	2,276	2,439	2,240	2,130	2,909	3,157	2,629
North-West Frontier Province.	386	366	289	293	262	288	308	443	479	567	492	483	479	675	841	664	590	984	1,364

but in the great rise in that form of crime peculiar to the province—serious trans-frontier crime.* There is a prevalent idea that the Hindus are the chief sufferers ; but Hindus and Muslims are victimised alike, though for obvious reasons the Muslims suffer more in loss of life and the Hindus more in loss of property.† Here unfortunately a comparison with old statistics is denied us, since separate statistics for transfrontier crime do not appear to have been kept by the Punjab Government. For the first seven years or so, the Frontier Province kept trans-frontier crime down. In the years 1908-10, when the Gulf arms traffic had penetrated to the transfrontier, there was a sharp rise ; then came a gradual drop until the outbreak of the Great War, when the figures in 1915 reached the unprecedented figure of 345. They dropped again gradually until 1919, the year of the Afghan War, when they reached the unparalleled height of 611. In the following year they dropped to 391, and in the last year ending with the 31st March 1922 they have dropped to 194. Grave though this figure is, the sharp and progressive drop from the appalling figure of 1919 holds out promise that the situation is again coming under control.

26. In considering this form of crime we have to ask ourselves, first, the causes that have led to it, and then, whether a change in administration would have

External causes.

lessened it. Now the main causes are palpably three. There was the great influx of arms of precision into the transfrontier‡, which set in during 1907 when the arms traffic in the Gulf was at its highest. Then there was the general unrest set up by the Great War, which the frontier felt in a way that India did not. And lastly there was the upheaval provoked on the frontier by the Afghan War, from the effects of which India was shielded by the frontier which bore its full brunt. To argue in the face of these external causes, that the increase of transfrontier crime is due to the separation of the frontier districts from the Punjab is a transparent example of the fallacy of *post hoc ergo propter hoc*. One might as well argue that until the separation of the districts from the Punjab, the river Indus was kept within bounds ; that since the separation it has encroached on Dera Ismail Khan ; that re-amalgamation with the Punjab is therefore the only way to drive it back into its proper channel. These external causes lay beyond the power of any Local Government, lay indeed beyond the power of the Government of India itself, to control. But even though this be granted, critics of the administration of the Frontier Province argue thus. Under the present régime the one and only consideration is the maintenance of friendly relations with the tribes ; the interests of the districts are ignored ; had the administration of districts remained in the hands of the Punjab Government, the Punjab Government would have insisted upon a series of punitive expeditions against the tribes even during the Great War. Now it is clear that the paramount interests of India demanded

*Statistics showing the number of raids committed in the North-West Frontier Province from 1906-07 to 1921-22.

Year.	Number of raids.	Year.	Number of raids.	Year.	Number of raids.
1906-07	41	1911-12	71	1916-17	292
1907-08	56	1912-13	77	1917-18	223
1908-09	99	1913-14	93	1918-19	189
1909-10	159	1914-15	165	1919-20	611
1910-11	114	1915-16	345	1920-21	391
				1921-22	194

†Cf. the statistics of Dera Ismail Khan.—

Year.	MUSSALMANS.				HINDUS.			
	Kidnapped.	Killed.	Wounded.	Value of property lost.	Kidnapped.	Killed.	Wounded.	Value of property lost.
				Rs.				Rs.
1919-20	107	54	51	3,32,315	18	8	10	7,38,426
1920-21	32	26	25	1,00,227	4	..	..	49,148
1921-22	19	15	25	1,26,530	9	2	2	16,431

‡It is believed that there were some 29,000 breechloading rifles in the transfrontier in 1905, and 140,000 in 1920.

the reduction of punitive expeditions on the frontier during the Great War to a minimum. It is equally clear that so paramount were those interests that not even the advocacy of the Punjab Government could have secured the overriding of them at a period so critical. And though according to a shortsighted view the interests of the districts may be thought to have suffered, the longer the view we take, the more obvious it becomes that the districts in the end were the gainers by the subordination of their apparent immediate interests to the all-India necessity for maintaining peace on the frontier in a crisis of such magnitude. If on the frontier we are still suffering from the aftermath of the Great War, so is the world at large. But on the frontier we are suffering from the aftermath of yet another war, a war forced upon us without rhyme or reason by Afghanistan. Not until we emerge from the most laborious process of re-construction after these two up heavals, will it be fair to bring the statistics of transfrontier crime into comparison with the statistics before the creation of the province. Even then we shall have to review them in the light of the general rise in crime within India as a whole.

27. Not that we be little the gravity of that rise. Far from it. We regard it

as most serious, and we advocate that it should be combated by every possible means within our power. On the policy now being pursued in Waziristan it is not for us to comment. But whatever be the outcome of that policy, we are convinced that the border villages should be placed in a position to defend themselves against transfrontier raids. We have been provided with statistics to show that the frontier districts are now much better armed than in the days of the Punjab.* But this is not enough, for the tribes across the border are immeasurably more so. The old equilibrium must be restored as far as may be and the cis-frontier provided with adequate powers of resistance. In the exposed towns of Kohat and Bannu and in the rural areas generally licences to carry arms should be given freely. In the rural areas specially exposed to raids, registration of rifles is all that should be demanded. Wherever the local supply of arms in the border villages is manifestly inadequate, arms should be issued by Government, preferably on the responsibility of the Khans or other tribal leaders. We have had striking evidence adduced of the gallant record of the Frontier Constabulary in combating transfrontier raiders, and we gladly add our tribute to the tributes paid by the witnesses before us. But we feel that every effort should be made to re-invigorate the old responsibility of the Khans and border villages to keep watch and ward on the frontier marches. We urge that in outlying tracts, some of the duties now imposed on the Constabulary and the police should be entrusted to village levies organized under the Khans, and that on them should be placed more and more that responsibility for which they receive remissions of land revenue and which they are best able to fulfil. This is conspicuously a reform that can be introduced as effectively from within; in fact even more effectively, for the local needs can be ventilated with far greater force in a local Council than in any wider Council without. This indeed has been disputed on the ground that the Punjab Government, unlike the frontier administration, had it in its power to reward border defence services by the grant of land. This no doubt is true: but we recommend that in future allocations of canal lands that come under their control the Punjab Government should definitely set aside a proportionate share to the frontier districts in recognition of their defence of the frontier†. On all sides we heard expressions of regret at the disappearance of the Punjab Frontier Force. It would hardly be within our province to make a definite recommendation on this score. Yet we cannot help feeling that the activities of the transfrontier raider—than whom there is no better judge of the calibre of the forces he has to contend with—would be appreciably curbed, if we reverted to the old system of maintaining for specialized frontier service a number of regiments, recruited from races adapted to hill fighting, continuously trained on the frontier and thus familiar with the terrain and ways of the Pathan.

* *Vide* Volume III. Appendix 20, page 47 *Seq.*

† This was put to Sir John Maynard (Vol. II, pages 525-6), who thought it a very reasonable proposition but was unable to commit the Punjab Government to its acceptance.

28. But, urge our dissentient colleagues, grapple with the problem of raids as successfully as you may, the very continuance of the Frontier Province, overwhelmingly Muslim in population and linked to the trans-frontier by many and manifest affinities, is a political danger to India. When the stress comes, when the storm bursts, who shall say that it will not go over bodily to the enemy? Before the British element in the administration of India is reduced, let us merge this Pathan population in the cleansing rivers of the Punjab*. We ourselves have a more robust faith in India's power of giving scope for the self-development of the Pathan as of her other peoples within her all-embracing nationality. And surely with good reason. Did the Frontier Province fail India in the stress of the Great War, which she felt in a that the rest of India did not, or in the storm of the Afghan War, which spent itself on the frontier and left the rest of India unscathed? India has cause indeed to be thankful that it is a race as manly and as staunch as the Pathan that holds the ramparts for her on this historically vulnerable frontier. In the face of the record of the Frontier Province, tried in the supreme tests of 1914 to 1919, the fears of our Hindu colleagues are indeed idle. And if self-determination is to be allowed any play at all in India; it should surely be allowed to the Pathan race whom Providence has interposed between India and foreign aggression. The danger from outside is there, as all past history shows; the mere administrative division of the warlike Pathan race—were this practicable—would not eliminate or even diminish it. Indeed the reverse is the more likely. For mistrust breeds mistrust. The Pathan of the districts is now keenly alive to the issues before us; and if mistrust of the Pathan is to override the Pathan's self-determination for self-development in a separate province, the danger of his turning westwards may become real. On the other hand, if liberal institutions are now granted to the frontier districts and the foundations of a Frontier Province are well and truly laid, it is not wholly visionary to hope that with the gradual march of civilization into the tribal tracts these too will eventually join their kindred of the districts in forming a strong and contented community at the danger-point of India's frontiers, a barrier against all possible enemies from the west. But if the Pathan race were now dismembered and one half merged against its will in the Punjab, the tendency would be for the other half to look elsewhere than to India, and one of the most warlike races of Central Asia might be lost to the Indian Empire.

29. Again it was urged that the defects in the frontier administration are so radical, are indeed so inherent in any action on the frontier and its remedy from within. miniature administration, that they can not be remedied from within. Now we will make one prefatory remark. Thanks to the publicity with which our arrival on the frontier was heralded and the very nature of the scope of our enquiries, our Committee brought a searchlight to bear on all branches of the frontier administration to the like of which no other province has been exposed. Our enquiries were open not only to sections of the public avowedly bent at all costs on a return to the Punjab, but also to individual malcontents with personal grievances, and even to non-co-operators eager to tilt against the established administration. That we heard the worst that was to be said is certain. Yet nothing that we heard approached, we will not say what has been alleged but what has happened elsewhere. Take for instance the complaints of high-handedness of the frontier official in his executive actions. Four notable examples were placed before us. There was the stoppage of the post and telegraph services within Peshawar after the city roughs had done their best to mar the Prince's visit to the city. Asked under what law this stoppage had been enforced, Sir John Maffey at once took the whole responsibility on himself and replied "the law of common-sense," explaining that the action had not been taken until income-tax collectors had been beaten out of the city.† Then there was an accusation that the Khilafat movement in Bannu had been ruthlessly broken up by the rounding up of innocent villages by the soldiery. But what were the facts? The villages were rounded up on suspicion of harbouring outlaws responsible for a series of diabolical raids with kidnapping in Bannu city, and the capture of one of the most blood-stained outlaws on the frontier in their midst proved the justice of these suspicions up to the hilt.‡ Then we were shown an order declaring Mansehra to be under

* This was put in an extreme form in the evidence of Professor Culsan Rai of Lahore (Volume II, page 715).

† *Ibid.*, Vol. II, pp. 154, 165, 209.

‡ *Ibid.*, Vol. I, pp. 615, 618; Vol. II, pp. 82 *seq.*

Military control, ordering the inhabitants to remain indoors, and forbidding all entry into the town. But here again what were the facts? The whole countryside had been inflamed by the preaching of a Maulvi; parts of the Tahsil were in armed rebellion and attempting to set up an administration of their own; the transfrontier was on the point of rising, and did indeed rise and sack some of the Constabulary posts within 24 hours of the order. The primary object of the order was to ensure the peaceful arrest of the ringleader. As soon as this was effected, the Deputy Commissioner went into the town and told the inhabitants they could go about their ordinary business.* And finally there was brought to our notice an amazing order threatening intending visitors to the Ahmedabad Congress with expulsion from the district. The fatuity of this notice was admitted by the Deputy Commissioner himself, who, while not attempting to disclaim responsibility for it, explained that it was due to a misreading of his instructions by one of his subordinates.† It is not for us to sit in judgment on these and other examples of executive action on the frontier. But we would say this. The proper check and the best check on ill-advised executive action are the publicity and the criticisms afforded by a local council, which alone can appreciate the validity of the causes that prompted it and can determine whether the local conditions call for its revocation. Still less is it for us to criticise executive action in other provinces. But we cannot refrain from remarking on the incongruity of our colleagues from Madras and Bombay pressing on this ground for re-amalgamation with the Punjab, seeing that the record of the Frontier Province is clean of events like the Moplah tragedy, the Malagaon riots, and Jallianwala Bagh, which figure in the recent history of Madras, Bombay, and the Punjab.

30. Then there is the allegation that all political life on the frontier has been stifled. Not only is there no freedom of the press, there is now no press on the frontier at all, though a few journals have sprung up from time to time only to disappear. But in spite of insinuations to the contrary, it appears that not a single newspaper has been confiscated or forcibly stopped on the frontier. Their extinction has been due to financial reasons. For the demand for a local organ is not strong enough to compete with newspapers from Lahore and elsewhere, which can be placed on the general frontier market as speedily as anything that the Frontier can produce. This clearly is a defect that amalgamation with the Punjab would not be calculated to remedy; rather the reverse. Another element in the indictment against the frontier administration is that the system of election has not been introduced into any of its Municipalities or district Boards, although machinery for it was provided in the Abbottabad District Board as far back as 1886. As the underlying suggestion is that had the districts remained with the Punjab, the elective system would have been introduced as a matter of course, it is to us a little strange that the Punjab itself did nothing in this direction in the 15 years from 1886 onwards that Abbottabad remained under its control. It is strange also that in more than a third of the Punjab districts, including the frontier district of Dera Ghazi Khan and the whole of the Rawalpindi Division, there is no elective element in the District Boards to this day. Indeed the whole argument is based on a complete misconception, for during the last twenty years the elective principle in local bodies has in the Punjab lost far more ground than it has gained‡. One obvious reason why the frontier administration has halted in the march forward is suggested by the experience in the Peshawar Municipality, where the attempt to introduce election was only abandoned because the Hindu and Muslim communities could not be brought to agree over the distribution of the seats. Nevertheless, whatever the difficulties, we are of the opinion that the elective principle with an elected majority and a liberal representation of minorities should now be introduced into all Municipalities, and as far as possible into Notified Areas and District Boards. This again is clearly an example of a reform that can be as easily introduced from within as by amalgamation with the Punjab.

* *Ibid.* Vol. II, pp. 396, 398, 436, 481.

† *Ibid.* Vol. II, pp. 9, 458, 481.

‡ The Punjab statistics speak for themselves:—

<i>Total number.</i>				<i>Number with right of election.</i>		
	Municipalities.	Notified areas	District boards.	Municipalities.	Notified areas.	District boards.
1901-02	137	46	27	109	..	16
1920-21	101	103	29	78	1	18

31. Many witnesses pointed to the danger of stagnation in a Province where the

Remedy for threatened stagnation in the services of the miniature Province.

cadres of the various departments are necessarily small, and claimed that Sir Mackworth Young's prophecy that there would be "down-grading in every branch of the internal administration during the next half century" was being fulfilled. Though we had no definite evidence in support of this, we feel that there is a deficiency of the trained civilian element in the Imperial service, and that difficulties will arise during the next few years on the retirement of the last of the Punjab officers who have been in the Province since its formation. It is not that the military political officer is necessarily inferior to the civilian; what is needed is the constant infusion of a civilian element in touch with the march of affairs in a regular province. The flow of civilians from the Punjab contemplated in the original scheme has not been forthcoming, and the flow of civilians through the Political Department is uncertain.* We therefore recommend that of the present cadre of the settled districts sixteen officers† should be obtained on deputation from the Punjab, and that for this purpose the Punjab should recruit for sixteen officers above their present strength, the recruitment of the Political Department being proportionately reduced. As it will take some time to give effect to this change, we advise that a certain number of military political officers (say five) should be exchanged forthwith with Punjab civilians for a term of (years. We understand that the Punjab Government are willing to entertain these proposals subject to the arrangement of details. A similar system of exchanges might with advantage be arranged in the Provincial service. Not that we believe the charges of inefficiency that were made in some quarters against them. On the contrary, those of the Provincial service who came before us as witnesses impressed us by their high standard of intelligence and independence of character. The proposed exchanges would however broaden the scope and outlook of the service. The small size of the Province has also been blamed for the frequency of changes among officers‡. We do not believe that this trouble is due to the size of the Province or that changes are more frequent than elsewhere. Thus Mr. Parker, the Punjab official Member of our Committee, has had 32 changes in 24 years' service, a record for which it would be difficult to find a parallel in the North-West Frontier Province.

32. The Frontier Province is assailed as a financial drain on India, and it

The Frontier Province constitutes a financial drain on India.

is stated that the expenditure has increased out of all proportion to the revenue. The mover of the resolution which gave rise to our Committee stated§ that the additional cost of the formation of the North-West Frontier Province was estimated at Rs. 3,55,507, and that the cost of the administration had so far exceeded the estimate that in 1920 the expenditure exceeded the revenue by more than 109 lakhs. This is not a correct comparison. In the scheme drawn up in 1901 for the administration of the Province, the revenue was estimated at 36 lakhs and the expenditure at 64 lakhs. But certain items of a temporary nature were excluded from the estimate of expenditure, and the actual cost of the Province in its first complete year (1902-03) amounted to 74 lakhs. It thus started with a deficit of 38 lakhs. The revenue in 1921-22, a year of bad harvests, was 60 lakhs, an increase of 66 per cent. above the estimate of 1902-03. The actual expenditure was approximately 200½ lakhs, shewing an increase of 170 per cent. in 20 years, which serious though it is, compares favourably with the increase of 216 per cent. shewn in the budget estimates of the Punjab for the same period.¶ The deficit was 140 lakhs, or more than three and a half times as great as in 1902-03. Within the districts a serious item of expenditure is the Upper Swat Canal, which, designed and constructed for the Province by the

*Of the twelve Indian Civil Service officers now in the Provincial list, six were there before the separation in 1901, one joined in 1902, one in 1904, one in 1911 and the remaining three since the war.

†Thirteen posts and a leave reserve of three.

‡Details will be found in Appendices 26-28. The statistics look worse than they really are, as all changes for short leave, etc., have been shown; e.g., there was only one permanent Deputy Commissioner of Peshawar from February 1912 to January 1919; yet the office is shown as having changed hands seven times during this period.

§ Legislative Assembly Debates, Volume II, page 728.

¶ This total includes 9½ lakhs for interest on works for which capital accounts are kept. No such item is included in the expenditure of 74 lakhs in 1902-03 and the amount cannot now be ascertained.

* Cf. Volume I, page 115 *Seq.* In the case of the North-West Frontier Province we quote the actuals for 1921-22, since received, in place of the Budget estimates quoted by Sir John Maffey.

Punjab Irrigation Department, is now being worked at an annual loss of about five lakhs. It is hoped that it will in time become a source of revenue.

33. But more than half the expenditure is incurred not on Civil administration proper but in connection with the tribal tracts and border defence. The revenue of the tribal tracts is insignificant and expenditure on border defence yields no return in revenue. It is obvious therefore that if the expenditure of districts and tracts is taken as a whole, the expenditure in a time of rising prices must outrun the revenue. The largest increases since the formation of the Province appear under the heads Political (28 lakhs) and Police (40 lakhs). These large increases are partly due to the larger forces of Border Militia and Frontier Constabulary now found necessary to counter the vast improvement in the armament of the tribes, and partly to the enhanced rates of pay of all ranks, which have had to be advanced *pari passu* with the increase in the pay of the Indian Army. Thus the principal rise in expenditure, has been incurred for the protection of India's land frontier, and for this it is clear that India as a whole must pay. It is out of the question for the frontier districts to bear the charge. It was not borne in the old days by the Punjab, for the Political head was always Imperial, and there is no reason to suppose that the sum would be reduced by returning the districts to the Punjab now. The reverse might well be the case, for unless the tracts also were returned to the Punjab, a Forward Policy would be inevitable. Though the cost is high, it compares not unfavourably, when the importance of the North-West Frontier is considered, with 54 lakhs* which India is paying for Baluchistan. We allude elsewhere to measures which are being taken to reduce the deficit and to make the internal administration of the districts as far as possible self-supporting.

34. At one time we thought that we might secure economy and possibly increased efficiency by the amalgamation of some at any rate of the technical Departments with the Punjab. As a test case we were pressed to examine Education. But if Education were really a test case, the whole matter would drop. For educational amalgamation with the Punjab would not spell economy, since an Inspector would still have to be maintained on the frontier on a pay little if at all less than that drawn by the present Director of Public Instruction, and the staff of the Punjab Director would almost certainly have to be strengthened. Nor would it promote efficiency in view of the natural tendency of the Punjab Government to rate educational needs in direct ratio to their proximity to Lahore. That frontier education was starved under the old Punjab régime,† and that it has made remarkable strides since the severance of the districts from the Punjab, admits of no dispute‡. And any slackening in the educational efforts now being made on the frontier would be deplorable, for it is to the spread of education that we look for the ultimate solution of many of our frontier difficulties.

35. If the Frontier Province could point to no other educational achievement than the bringing of the Islamia College of Peshawar into being, it might well be proud of its record. Set on the utmost verge of the frontier at the very gate of

* According to the actuals of 1920-21. By the Budget for 1921-22 Baluchistan costs 62 lakhs and by that for 1922-23, more than 64 lakhs.

† Rupees 33,000 is all that is shown in the budget estimate of 1902-1903 as to be spent on primary and Rs. 84,000 on secondary education, in the frontier Districts. The annual expenditure transferred from the Punjab to the new province for education in 1901 was only Rs. 22,510.

					Number of Schools.	Number of Scholars.	Expenditure. Rs.
<i>Primary education (boys).</i>							
1901-02	..	..	..	..	154	7,241	33,000
1920-21	..	..	..	..	636	25,336	3,14,000
<i>Secondary education (boys).</i>							
1901-02	..	..	..	..	28	5,082	84,000
1920-21	..	..	..	..	76	15,830	5,24,000
<i>Primary education (girls).</i>							
1901-02	..	..	..	..	8	516	2,400
1920-21	..	..	..	..	56	3,515	54,500
<i>Secondary education (girls).</i>							
1901-02	..	..	..	..	Nil	Nil	Nil
1920-21	..	..	..	..	4	825	14,800

‡ Cf. Vol. II, page 383, seq.

India, where the great highway from Central Asia debouches into the plains, it stands forth a not unworthy embodiment of Indian civilization. Though instituted primarily for the benefit of the Pathans, it has from the start been catholic in character, opening its doors to one and all, irrespective of race and creed. There is hardly a transfrontier tribe that is unrepresented in it : and the spirit of good-fellowship between Mahsud and Wazir and Afridi and many another transfrontier tribesman, sons of the Mehtar of Chitral, and British subject from the districts, was not the least striking among the impressions of the College we carried away with us. The Islamia College is a triumph of self-help, for it owes its existence mainly to private effort. It is now suffering from the prevailing financial stress, and suffering also, like many another Muslim institution of the kind, from the attacks of the non-co-operators. True, private generosity is not likely to be withheld once its straits are known. But for Government to stint its support, would be shortsighted policy indeed. It is not only by the expenditure of blood and treasure on military expeditions that the turbulent transfrontier is to be subdued. Force we must always maintain on India's vulnerable frontier, and that in full measure. But in the gradual enlightenment of the educational darkness that from time immemorial has brooded over the transfrontier, there lies hope for the eventual solution of some of our frontier troubles and for the gradual lifting of some of our military burden. It is not within the settled districts alone that the beneficent influence of the Islamia College will be confined. If it continues to be wisely managed, and to command, from private and Government sources, sufficient funds for its development, its influence will penetrate—slowly no doubt, but none the less surely—beyond the districts into the tracts, and beyond the tracts still further afield.

36. But the fact that we had to rule educational amalgamation with the Punjab out of court did not bias us in weighing the *pros* and *cons* of amalgamating other departments. In particular we examined the case of the Police. Here again we could detect scant prospect of economy, for the necessity of keeping a highly paid officer in Peshawar would remain. Nor could we see any hope whatsoever of increased efficiency. For one thing, the frontier requires a special organization in its police, since its needs are special, and the work is special. For another, as matters now stand, the frontier is able to secure the pick of the Punjab cadre in order to fill its superior appointments. And it is to this that we attribute in a large measure the superior efficiency of the frontier police over the police in the Punjab. We heard hard words said against them, it is true. How could it be otherwise ? In every province the police is the favourite target for complaints. But the worst that was said against them fell far short of the wholesale condemnation levelled against the Punjab Police in a recent enquiry, and complaints were tempered by praise* especially of the Frontier Constabulary. At the same time we feel that economy would be served without any appreciable loss of efficiency by placing the District Police and Frontier Constabulary under the administrative charge of one and the same officer. This is a reform which we understand is now being introduced. We are inclined to suggest a similar doubling up of the Secretary for Irrigation and the Secretary, Public Works, for we doubt whether the present arrangement under which Civil Works in the province are carried out by the Military Works Department, is economical in the long run. We can see no prospect of economy in placing either Irrigation or Civil Works under the Punjab, though we see advantages and little difficulty in the advice of the Punjab experts being made available in cases of real importance. We were a little more doubtful over the Jails, Medical, and Public Health Departments, which are now under the Chief Medical Officer. But though in the Jails branch some increase in efficiency might be gained by amalgamation with the Punjab, neither economy nor efficiency would be likely to result from the amalgamation of all three branches. And it is clear that if economy is to be served, all three must be transferred to the Punjab, or none at all. But sanitary arrangements on the frontier not only demand an officer on the spot ; they are an Imperial concern, the responsibility for which cannot be shifted on to a Local Government, for the frontier acts as a buffer against the encroachment of disease into India by land. Hence, our only recommendation on this score is that practical jail experience should be looked upon as an essential

*E.g., Rai Sahib Raizada Eshwar Das (Volume I, page 428) :- " I think our police is not bad. I think they do a lot of work both political as well as criminal. They have to do more manifold duties than the police in the rest of India. I am very proud of the Frontier police."

qualification for the appointment of Chief Medical Officer. In strictly technical matters we advise close association with the Punjab. Agricultural farms seem a case in point. The assistance of the Punjab in the prospective introduction of co-operative credit has already been secured.

THIRD TERM OF REFERENCE. PART II.

“And if so, (b) to constitute a Legislative Council for the five administered districts.”

37. We now approach what is perhaps the most delicate part of our task. There exists on the frontier a strong and conscious desire for participation in the Reforms that must be satisfied. But where as most of the Hindus of the province, and the urban Hindus in a body, demand satisfaction of their political aspirations in a larger entity, the majority of the Muslims, and the Pathans almost to a man, will not be content with the fulfilment of their political aspirations save within their own province. We felt this cleavage between Hindu and Muslim on the frontier. It was emphasized in the frontier debate in the Punjab Legislative Council, in which, while the Sikh vote was split, the Muslims cast a solid vote against re-amalgamation and the Hindus cast a vote no less solid in favour of it*. It is to ourselves a matter of profound regret that there has been a like cleavage among ourselves, and that our two Hindu colleagues have found it necessary to part company with us. But however much we have struggled against it in the examination of the great issues before us, the cleavage is there—on the frontier, in the Punjab and among ourselves—and it would be cowardice to pretend otherwise. The local Hindus shrink from the perpetual minority that confronts them in a frontier province. The Hindus of the Punjab are anxious to come to the rescue of their frontier brethren and are confident of their power to cope with the Muslim influx which re-amalgamation would bring to the Punjab. Our two Hindu friends on the Committee are swayed—if we judge them aright—not merely by a sympathy with the frontier Hindus in their lot, but by a fear that a separate Muslim frontier province would constitute a political danger. We have endeavoured to show that their fear of a Muslim frontier province is unjustified. And we are convinced that the safeguarding of the Hindu minority can be adequately secured in the local Reforms Scheme we advocate.

38. Now under the Government of India Act as it stands, an Advisory Council is all that could be given to the province. This clearly will not do. Not only is there a general soreness in the province over its total exclusion from the Reforms hitherto, there is a general demand for its participation in them to the full measure now. Indeed, the fear that a “glorified District Board”—to borrow an expression freely used before us—was the utmost that the separate province could hope for seems largely to have inspired such Muslims in the province as favoured amalgamation with the Punjab. The frontier inhabitants are assuredly not behind the rest of India either in intelligence or capacity to manage their own affairs; their aspirations for reforms have been awakened into full consciousness, and will not be satisfied by anything short of the essentials of the Reforms enjoyed elsewhere. Whatever the form of the Council introduced into the province it must be something live and vigorous. The day for an Advisory Council is past. A Legislative Council is essential.

*The actual voting was,—

<i>Against amalgamation.</i>		<i>For amalgamation.</i>	
Muslims	27	Muslims	<i>Nil.</i>
Hindus	<i>Nil.</i>	Hindus	16
Sikhs	5	Sikhs	5
Englishmen	6	Englishman	2
Total	38	Total	23

The Punjab Government abstained from voting, but expressed itself strongly against amalgamation in the course of the debate. (Official Report, Punjab Legislative Council Debates, Volume IV, No. 1.)

39. Economy must clearly be the guiding principle in introducing scheme of reforms into a province so little self-supporting. Partly for this reason but partly also in view of the smallness of the population, we cannot recommend a Legislative Council of more than 30 members, with an official President (without extra emoluments), and if necessary an honorary Deputy President. We advise an elected majority of at least 60 per cent. Sir John Maffey, we observe, while favouring 50 per cent. was willing to consider 60 per cent. if special representation were given to the khans. To the adequate representation of the hereditary Khans we ourselves attach importance. For most of the Pathans still recognize the authority of their tribal leaders and are tractable and well behaved under their control, and in view of the hot-headedness of the Pathan we feel that care should be taken in the early stages that the introduction of democratic institutions does not suddenly undermine the influence of the tribal leaders, who both by custom and by government are held responsible for the protection of the Hindus in their areas. Special representation of the Khans is indeed called for in the interests of law and order. The interests of the non-Muslim minority will be secured by allotting to them double the number of seats to which their numerical strength would entitle them. We recommend the appointment of a Minister to take charge of all subjects that are transferred subjects in the Punjab. Until such time as the province is self-supporting, his pay should not we think, exceed Rs. 2,000 a month. He is not likely to need any establishment beyond a clerk or stenographer and a couple of orderlies. One member will suffice for the Executive Council. No expenditure will be entailed, for the Revenue Commissioner is already available as Finance Member. The scheme will obviously entail further representation of the province on the Indian Legislature. In so far as we can judge, an appropriate representation, consonant with the general scheme of Reforms, would be two Members in the Council of State and four in the Assembly.

40. Some deviation, however, from the constitution of a Legislative Council in a Governor's province is unavoidable. For there are three main difficulties peculiar to the province:—the weakness of its financial position; the close connection between its internal and external politics; the paucity and characteristics of its population. In dealing with the financial position the first thing to do is to reclassify frontier expenditure into charges incurred in the tribal tracts or on border defence, and charges incurred on the internal administration proper. It is of course with the latter alone that the Legislative Council would be concerned. But while expenditure in the Agencies is already separate, expenditure in the transfrontier areas under the charge of the various deputy commissioners is at present lumped up with the district expenditure, and so is the expenditure incurred in the districts on the Frontier Constabulary and other border defence. All such charges must clearly be removed from the purview of the Legislative Council and treated as Agency expenditure under Section 45 (A) (1) (c) of the Government of India Act, subject to the control of the Government of India. If the expenditure is thus distributed and retrenchments now in contemplation are put into effect, then according to rough calculations we have made the present deficit on the internal administration would drop from about 56 lakhs to about 20 lakhs a year, with some prospect of ultimate extinction. How this deficit should be made good, whether by a lump contribution from the central revenues or by the removal of certain heads of provincial expenditure from the control of the local Council, it is hardly for us to advise. But once equilibrium has been established in the provincial budget, the Legislative Council should have the same power over it as a Legislative Council in a major province.

41. Though we thus envisage the introduction into the Frontier Province of "full fledged reforms" to quote the phrase in which the local demand was generally put to us—we are keenly alive to the necessity for safeguarding the paramount all-India interests. We do not recommend that the Chief Commissioner should be given either the style or status of a Governor. In the tribal tracts he must remain as heretofore the Agent to the Governor-General. And even in the internal administration, the peculiar position of the province, its financial dependence on central revenues, and the close and at times inextricable connection between its

internal and external affairs— all these factors combine to call for a wider power of control and a closer supervision by the Governor General than he exercises over a Governor's Province. What the limit of that control and supervision should be it is not for us to define. In any case our recommendations cannot be carried out without an amendment of the Government of India Act ; the nature of that amendment we must leave to constitutional experts. But for our skeleton constitution for the Frontier Province we claim this. It embodies at a very low cost all the essentials in the reforms enjoyed by a major province : it sets up a Legislative Council with an elective majority ; it includes a Minister and an Executive Council, and it makes full provision for the introduction of adequate safeguards for the interests of the small non-Muslim minority and for the paramount interests of all-India.

FOURTH TERM OF REFERENCE.

“(iv) Whether if the retention of the province under the Government of India is expedient, it is expedient to transfer the control of the Judicial Administration to the High Court of the Punjab, and if not, what measures are recommended for the improvement of the existing Judicial system.”

42. The witnesses were as sharply divided over the desirability of judicial amalgamation as over the desirability of complete
 Arguments for judicial amalgamation stated. amalgamation with the Punjab. In fact we came to look upon the opinion expressed by a witness on the administrative question as a precursor of his attitude towards judicial reforms. There were no doubt exceptions here and there ; but as a general rule advocates of administrative re-union were also the advocates in the alternative of judicial fusion, just as those in the opposite camp could reconcile themselves to the idea of being merged in the Punjab as little judicially as administratively. The arguments in support of judicial amalgamation may be thus summarized :—

- (a) the public have greater confidence in a High Court than in a court-consisting of a single judge ;
- (b) the smallness of the province restricts the field of recruitment for judicial service, and denies its officers the opportunities of adequate training and a larger experience ;
- (c) to the higher judicial posts are frequently appointed officers of the Political Department who are ill-equipped for discharging the duties of a Judge ;
- (d) there would have been no appreciable rise in serious crime had the Province been subject to the jurisdiction of the Punjab High Court ;
- (e) the excessive use of certain provisions of the Frontier Crimes Regulation has seriously affected the efficiency not only of the police but also of the judiciary ;
- (f) the extraordinary powers exercised over the legal profession in the province have retarded the growth of an efficient and independent Bar.

43. Now it is not claimed that the judicial system in the Punjab is any different from that in the Frontier Province, except

A Bench of two Judges essential. in one essential. The main advantage of transferring the judiciary to the Punjab High Court would lie in the fact that all first civil appeals and some second appeals, together with murder references and some criminal appeals, would then be dealt with in the High Court by a Bench of two Judges, whereas they are now dealt with by one Judicial Commissioner only. The advantage of this would be immense ; indeed if it could not be secured save by judicial re-amalgamation, we should have had to recommend judicial re-amalgamation on this ground, its disadvantages notwithstanding. For it is manifestly improper that a murder reference, on which turns the life or death of a man, or a first civil appeal of a large valuation that involves difficult questions of law and fact, should be determined by a single Judge. Fortunately this essential reform can be secured within the Frontier Province itself by the appointment of an additional Judicial Commissioner—an appointment that seems called for otherwise, for the file of pending appeals consequent on the rise in litigation—and a further rise must be expected if the application of the Frontier Crimes Regulation is restricted as we recommend—is a warning that unless steps are taken to afford relief to the Judicial Commissioner the arrears may become

unmanageable. That the province at large claims the right like other provinces to have its important cases heard finally by a Bench of Judges is undeniable. And the claim is irresistible. But hardly less resistible appears to us the demand of the majority in the province that their cases should be heard finally, not at the distant capital of some outside province, but within the capital of the province itself. Several witnesses asked us to picture the unhappy lot of a frontier litigant if he had to go all the way to Lahore. A stranger in a large city, unable very possibly to make himself understood, and bewildered by the overcrowding of the Bar, he would be hard put to it to select the right type of lawyer to appear on his behalf. But even more serious for him would be the inevitable delay until at last the final decision was passed. To a Pathan justice delayed is justice denied. Whether he would contain himself in patience for 1,329 days (the average duration of a first civil appeal in the Punjab High Court for 1921) to hear the result of his case is doubtful in the extreme. For he is temperamentally hot-headed and impatient of delay, with an hereditary tendency to take the law into his own hands. In short we are convinced that the raising of the Judicial Commissioner's Court to a Bench of two Judges will result in greater convenience and contentment and conduce to the better governance of the people of the province than a transfer of Judicial control to the High Court of the Punjab. And the additional Judicial Commissioner should be a member of the Bar, on the same pay as the Judicial Commissioner without allowances.

44. Now one advantage in judicial re-amalgamation that at first appealed to

Enlarged judicial training and experience essential for the provincial service.

us was the escape that it seemed to offer from the disadvantages inherent in a small judicial cadre. As it is, a judicial officer of the provincial service is often re-posted to the same district, and is exposed to the imputation that his family and other connections with the province give him at times an unconscious bias in the discharge of his official duties. But what improvement would the substitution of Lahore for Peshawar produce on this score? If the idea is that Punjabis should displace natives of the province in the judiciary, we come up at once against strong and obvious objections. Though the frontier in the old days used to attract the pick of the Imperial Service officers from the Punjab, it never had the same attraction for the Punjab Provincial officer. There is therefore no likelihood of the pick of the Punjab judicial officers seeking transfer to the frontier; indeed it is much more probable that the Punjabi would regard transfer to the frontier as banishment to a penal settlement, and would continually be seeking to get away. It is not through unwilling officers, or officers of doubtful merit, transferred from the Punjab, to a province which requires not merely book learning or a sound knowledge of law but also qualities of courage, endurance and determination, that tone will be given to the frontier judiciary. In any case, even if the judiciary were brought under the Punjab High Court, the provincial judicial service would still be manned mainly by the local element. It would be a diseased mind that would seek to deprive the natives of a province that exposes itself to daily risk so that other provinces may live in peace, of careers in Government service on the ground that some inconvenience may be felt over their postings and transfer. Their claims to full admission into Government service are incontestible. And if judicial amalgamation were effected, even then under the principle in vogue in the Punjab High Court* the tendency would be to keep them in the division near their homes—in other words in the frontier districts. At the same time we recognize the great importance of securing full training and opportunities for larger and more varied experience to the judicial officer of the frontier. But we are convinced that it is not in the judicial fusion of the province with the Punjab that the solution is to be sought, but, first, in the insistence on a minimum educational standard—say Matriculation, in the first instance—for direct appointment to the Provincial Service; second, in the thorough grounding of junior judicial officers both of the Imperial and Provincial Services in the Punjab or United Provinces, where special classes have been instituted for junior officers; and, finally, in the periodical interchange of officers between the Punjab and the North-West Frontier Province, to which the Punjab† Government have agreed and to which the Lahore High Court has no objection provided the judicial officers to be interchanged have similar qualifications.‡

*Vide Mr. Gordon Walker, Vol. II, page 624.

†Vide Sir John Maynard, Vol. III, pages 432-43, 524.

‡Vide Mr. A. L. Gordon Walker, Vol. II, page 637.

45. Much of the criticism of the judicial administration centred in the fact that the exigencies of the Political Department led to the frequent appointment of ill-equipped military officers to judicial posts. We have scrutinized the roll of incumbents of the higher judicial appointments since the creation of the province.* Now the record is not so bad as it looks at first sight, for the roll contains a large number of military officers who were either Punjab Commission Officers of judicial standing in the Punjab or had undergone a full judicial training in the Punjab or in the United Provinces, some of them men of marked judicial ability, and one at least a barrister-at-law. Nevertheless it is clear that too little discrimination has been exercised in the past in filling judicial appointments. We have elsewhere recommended that 13 posts in the province should be filled by officers from the Punjab. This will automatically bring relief on the judicial side. And though we are not prepared to recommend the exclusion of officers of the Political Department from judicial appointments altogether—for judged by the past this would debar a certain number of men of marked judicial aptitude—we recommend that it should be laid down as a definite rule that no officer should be posted to a superior judicial appointment unless he has had an adequate judicial training and experience. And with a view to a continuous strengthening of the judiciary in the province, we recommend that the gradual building up of a separate judicial service, Provincial and Imperial, should be kept in view, and also the progressive Indianization of the superior judicial service, partly by recruitment from the Bar.

46. The contention that the continuance of the judiciary under the Punjab Chief Court would have checked the rise in crime is not easy to follow. In fact it seems to be based on a confusion of thought. Judicial amalgamation would not result in a decrease of crime or expenditure. The Punjab High Court has been powerless to check a rise in crime within the Punjab itself where the causes have been internal: it would have been even more powerless to check a rise in crime in the distant frontier where the causes have been for the most part external. Nor could any marked improvement in efficiency have been looked for in the provincial judiciary, for a distant High Court is not likely to exercise greater supervision over or evince greater interests in the frontier Courts than a Judicial Commissioner at Peshawar in close touch with his subordinates. Indeed it is the meticulous criticisms of the local Courts made by the Judicial Commissioner in his annual reports and the reviews of the local Administration† that have furnished critics of the judicial administration of the province with most of the material for their indictment. Nor would judicial re-amalgamation spell economy. The Punjab High Court have told us that they are willing to undertake the judicial administration of the frontier province with the help of "one more Judge and perhaps two". Seeing that much of the work now done by the Judicial Commissioner would have to be done by a Bench of two Judges, there is no doubt in our own minds that two additional Judges would be required, with the possibility of a third in the not very distant future.

47. One of the commonest objects of attack on the administration was the Frontier Crimes Regulations, the excessive use of which was charged with weakening the efficiency both of the judiciary and the police. Now as an argument in favour of complete or judicial re-amalgamation with the Punjab it is singularly wide of the mark; for the Regulation was a legacy from the Punjab régime, it

*Vide Vol. III, Appendices Nos. 26 and 27.

†Vide the memorandum of Mr. E. H. Kealy, Appendix 20, Vol. III, page 92, especially the following extract "As regards judicial inefficiency I gather from what I have read in the papers that some of the outside public opinion at any rate on this subject is based on our own outspoken criticism in the Chief Commissioner's Reviews of the Annual Reports on the administration of Civil and Criminal justice, by reason of which it is said the administration stands condemned out of its own mouth. I happened to be the drafter of these reviews for the year 1915 to 1919 which contained perhaps some of these criticisms referred to by the public. I was led to draft these particular reviews in such somewhat outspoken terms as a result of the state of affairs which had been revealed to me during the winter of 1914-15 when I was on special duty inspecting the courts in the Dera-jat Division which made me realize the almost complete neglect, at any rate, of the important duties of inspection. When, therefore, I was appointed Secretary, I determined to work at this particular point and also towards the improvement of the judicial department so far as this could be done by any administrative action. Hence possibly the reviews of these years are worded somewhat more strongly than they might have been in ordinary circumstances and I gather that in many ways the work of the subordinate courts is probably not much inferior to that of the Punjab, by which standard I personally was unable to judge ours, having had no experience of it."

is still in force in the Indus districts of the Punjab, and the Punjab Government have made it clear that they would not repeal it if the frontier districts were forced back upon them.* Nor can we contemplate its repeal ourselves. To repeal its civil sections would be to inflict grave hardship on the Pathans, who rely on them for a cheap and expeditious settlement of their disputes by a Jirga—the Pathan equivalent of Panchayat—according to their ancient tribal custom. To repeal the criminal sections would be to undermine the forces of law and order and to deprive the Hindus in particular of one of their greatest safeguards, in a land where passions are hot, blood feuds are endemic, legal evidence is exceedingly difficult to obtain, and refuge from the arm of the law is close to hand across the border. To repeal the transfrontier sections would be to paralyse our whole system of transfrontier control. Indeed the validity of one or other of these propositions was admitted under questioning by nearly every critic of the Regulation, however loudly he had called for its repeal. But if repeal is out of the question, amendment is essential. To attempt to follow the witnesses over the range of their criticisms and suggestions would carry us too far afield. But we are quite clear that the Jirga system has been overdone: the number of cases referred to Jirgas has become so great that there are not enough Jirga members of weight to go round. Hence steps should be taken forthwith to restrict its application by executive order. One obvious restriction is the exclusion from its scope of urban areas, except in so far as transfrontier tribesmen are concerned. Another is the drastic curtailment of the delegation to lower officers of the powers vesting primarily in the Deputy Commissioner. And there are doubtless other restrictions and improvements in the working of the Regulation, such as the confining of the uses of the political lock-up to the strict letter of Section 21, the scrupulous selection of men of integrity for service on Jirgas and the debarring of a second reference to a Jirga except under the written sanction of the Local Government, that can be introduced at once by executive action alone. Its actual amendment is pre-eminently one of the first matters that the local Legislative Council should take under its consideration. But the subject is so wide and demands such close study of local needs and characteristics that it will be well for a small committee to prepare the ground beforehand. In Regulation VII of 1901 the power given to District Magistrates and Session Judges to enhance sentences should be withdrawn.

48. Caustic comments were made to us on the existence of restrictions on the legal profession and the consequent absence of an independent Bar in the province. We were not conscious ourselves of any lack of healthy independence in the local Bars, representatives from all of which urged their views before us in trenchant fashion. But if most of the existing restrictions appear to have become a matter of formal routine rather than to be still actively operative,† we can well understand that their very existence is galling and feel that their continuance is not only unnecessary but improper. The rules‡ to which objection is chiefly taken are three:—the insistence on the renewal of licenses from year to year; the restriction of licenses to a particular place of business, and the vesting of the power of revision of the Judicial Commissioner's decisions in the local Government. We advise that all three restrictions be removed. We consider that a license once granted to a barrister, advocate or vakil of a High Court should not require renewal; we regard prescription of a particular place of business as an unwarrantable interference with the profession and we hold that the local Government should have no voice in the enrolment or regulation of legal practitioners. We gather that the original object of applying special rules to the province was to discourage the overcrowding of the Bar by outsiders, as being likely to foster litigiousness and to lead to abuses in the peculiar conditions of the frontier. But the number of legal practitioners in the province is now so great that we think that no native of the province should be refused enrolment, except for reasons which would justify refusal under the Legal Practitioners Act, and that any legal practitioner enrolled in a High Court should be allowed casual appearance in the subordinate courts of the

*Vide Appendix 41, Volume III, page 123.

†For one notable instance to the contrary, in which a Mansehra pleader was ordered to remove his place of business see Mr. P. J. G. Pipon, Volume I, pages 254—7.

‡For the rules, see *North-West Frontier Gazette*, 1913, Part I A, page 780.

province without special permission or payment of a fee. Whatever the justification for the old restrictions may have been at the outset, the Bar and province alike have outgrown them.

49. We have little doubt that resentment over these galling restrictions has been largely responsible for the lead taken by the Bar in the advocacy of re-amalgamation with the Punjab. They certainly impart some show of reality to the otherwise seemingly unreal clamour for judicial amalgamation as against internal judicial reforms. For not only is judicial amalgamation repugnant to the local sentiment in the province at large, it runs counter to the whole spirit of the times. Not content with their administrative separation from Bengal, the Beharis did not rest until they were cut adrift from the Calcutta High Court and given a High Court of their own. In the United Provinces few proposals have aroused such fierce controversy as the proposal to amalgamate the Oudh Judicial Commissioners' Court with the High Court of Allahabad; indeed the people of Oudh would prefer administrative separation from the province of Agra rather than submit to it. Equally tenacious of their Judicial Commissioners' Court are the people of Sind, and any suggestion to amalgamate the Judicial Commissioners' Court at Nagpur with the Bombay or Allahabad High Court would provoke a storm of opposition in the Central Provinces. The only province throughout the whole of India of which certain parts are under the jurisdiction of an outside Court is Assam, where the arrangement is a last relic of Assam's historical association with Bengal. So strong is local sentiment and the spirit of the times against it that judicial re-amalgamation seems to us almost meaningless except as a stage on the road to complete re-amalgamation. This was admitted by several witnesses, one of whom described it as "the thick rather than the thin edge of the wedge." The pith of the matter was given us by the most senior Indian Judicial Officer of the province:— "If you take away the judicial administration, nothing will be left to him (Chief Commissioner); his prestige and patronage will be gone. I think the transfer of the judiciary is equivalent to the transfer of the whole province to the Punjab."*

Some of us entered on our enquiry with a predisposition in favour of judicial amalgamation. A closer examination of its implications, closer contact with the local sentiment, and an appreciation of the simplicity of introducing effective judicial reforms within the province have led us to a decisive condemnation of it. We doubt whether we are far wrong in saying that if the people of the province had their choice between either judicial amalgamation or complete amalgamation, they would reject judicial amalgamation as subjecting them to most of the disadvantages of re-union with the Punjab without any of its advantages, and would choose complete amalgamation, always provided that the Hindu and Muslim communities in the frontier districts were accorded representation in strict proportion to their numerical strength on the Punjab Council. And this, despite their passionate desire for self-development in their own province.

FIFTH TERM OF REFERENCE.

(v) *The approximate financial effect of any proposals recommended.*

50. Let us now pass our conclusions and recommendations in review. They are these:—

Summary of our conclusions.

- (a) Apart from the fact that the re-amalgamation of the five districts with the Punjab would be repugnant to local sentiment and to the decision of the Punjab Council, districts and tracts must remain a separate unit in charge of a minor administration under the Government of India, since the control of the tracts is inseparable from the administration of the districts, and the all-India interests demand that, like all other major foreign business, it should vest in the Central Government.
- (b) No time should be lost in granting reforms in the Frontier Province by the creation of a Legislative Council with an elective majority, Member and Minister, and the fullest powers compatible with financial considerations, the safeguarding of the minority and the securing of all-India interests.

* Rai Bahadur Lehna Singh, Additional Divisional and Sessions Judge, Peshawar. (Vol. II, page 123.)

- (c) The administration should be reformed, notably by the raising of the Judicial Commissioner's Court to a Bench of two Judicial Commissioners, the setting up of a regular flow of Indian Civil and Provincial Service officers from the Punjab, the imposition of a minimum educational standard for direct recruitment to the Provincial and Munsifs' Services, insistence on a full course of a training in a major province for officers of the Imperial and Provincial Services, the amendment of the Frontier Regulations and the revision of the rules for the enrolment of legal practitioners, the introduction of the elective system into Municipal Committees and as far as possible into District Boards and Committees of Notified Areas, and greater facilities for the inhabitants of the exposed parts of the province for obtaining and carrying arms.

These proposals involve a small increase of recurring expenditure as follows :—

	Rs.
(1) Reforms—pay of Minister and allowances of Members	42,500*
(2) Additional Judicial Commissioner and establishment	43,782†
(3) Eventual extra cost of Punjab officers	26,880‡
Total ..	1,13,162

We understand that no new buildings will be required either for the Council or the Judicial Commissioners' Court.

Thus at an annual cost of under a lakh and a quarter it will be possible to introduce the essential elements of the Reform Scheme into the province ; to provide for a Judicial Commissioners' Bench and to set up a constant flow of civilians from the Punjab to strengthen the judiciary and general administration. We have not thought it necessary to attempt to work out the cost of re-amalgamation with the Punjab, but our impression is that a comparison would be in favour of our scheme. Though the cost of participation in the Reforms within the Punjab would doubtless be less, judicial amalgamation would cost somewhat more, while very considerable additional expense would be involved by administrative amalgamation owing to the fact that the Punjab time-scale is substantially higher than the military time scale in the Political Department. But if there is a pressing need for new expenditure in the province on political, judicial, and administrative reforms, we recognise that there is need and also scope for retrenchment. Partly at our own instance a Retrenchment Committee has gone into the frontier finances. Its recommendations are still under consideration and the final result uncertain. But we gather that over and above the deductions effected by the Legislative Assembly in the budget for the current year, the Committee has recommended reductions amounting eventually to several lakhs in the expenditure, and the exploitation of fresh sources of revenue from which substantial returns may in due course be expected. However pressing the urgency for retrenchment no consideration of economy should be allowed to delay the introduction of the

	Rs.
*Salary of Minister	24,000
Establishment of Minister	3,000
Daily allowance of 25 non-official members for 30 days at Rs. 10 per day	7,500
Travelling allowances of members	3,000
Stationery and contingencies	5,000
Total ..	42,500
†Additional Judicial Commissioner at Rs. 2,750 and establishment ..	38,782
Travelling allowance, etc.	2,000
Contingencies	3,000
Total ..	43,782

‡The Political Department is recruited on a basis of 3 Civil to 7 Military officers. The difference in pay between Civil and Military officers average approximately 200 rupees per month. If 16 Political Department officers are replaced by Punjab civilians the extra annual cost will be $\frac{7}{10}$ of $16 \times 200 \times 12 = \text{Rs. } 26,880$.

Reforms we advocate. Our scheme is not a costly one, seeing that India depends largely for her security on the contentment, well-being and good governance of the North-West Frontier Province.

CONCLUDING REMARKS.

51. One closing word. The Frontier Province did India supreme service during the critical year of 1914-1919. That it will continue to do India yeoman service we firmly believe. But that India will ever be able to forget its existence in an era of peace and security comparable with that of internal India, we hold to be visionary. There is no room for counsels of perfection on the frontier. There has been no Golden age in the past; we can see none in the future. This troublous area will remain, what it has been throughout the history of India, the critical section of India's land frontier. But this we say and with confidence. For India to seek to shelter behind a major Local Government in the control of the frontier is to us inconceivable; the burden on the Punjab would be too heavy; the issues to India are beyond all measure too grave. But if the Pathan nationality is allowed self-determination and given scope for that self-development within the Indian Empire under the Reforms Scheme after which it is now striving, we are assured that with a contented frontier population India can face with calm resolution the future that the frontier has in store for her. The prospect on the frontier if all India interests are tempered with and an attempt is made to crush the Pathan's will for self-determination in order to gratify the supposed interests of a tiny minority, we decline for our part to contemplate.

52. That we found much that calls for overhauling and re-adjustment in the administration is patent from our recommendations. But the very nature of the remedies we urge implies that they are for the most part beyond the power of the

Tribute to Frontier officers.

Local Administration. Where we have criticised the existing system, we recognize frankly that it is the system itself that is at fault and not the officers who have been called upon to work that system. Though local passions ran high with our progress through the province; though we deliberately invited full and frank evidence from all sections of the public, and though our invitation attracted even avowed non-co-operators to ventilate their grievances before us, we heard nothing even from the most irresponsible witnesses to suggest a state of affairs in the frontier administration in any way comparable with that accepted apparently as fact by the Corruption Enquiry Committee in the Punjab. From the Provincial Services, in which local men naturally preponderate, we had before us witnesses who in shrewdness and general capacity could pit themselves against any in India; and our heavy labours were lightened by the candour and ability with which the British officers, with Sir John Maffey at their head, gave their evidence before us and endeavoured to meet the criticisms that we urged and the difficulties that we felt. Indeed, we were throughout impressed by the public spirit that animated the frontier officials, whether Indian or British, to press upon us views on policy which ran apparently counter to their private interests. Short though our tour was in the province, we could not fail to appreciate something of the difficulties and the dangers that face our officers in their important work on this the most vulnerable stretch of our long land frontier, and we desire to couple our criticisms of the administration itself, with a tribute to the public spirits, determination and courage with which Indians and Englishmen entrusted with the administration are carrying out their ceaseless task of defending India against aggression from outside.

(Sd.) DENYS BRAY.

„ ABDURRAHIM KHAN.

„ A. H. PARKER.

„ S. RAZA ALI.

„ SHAHABUDDIN.

„ H. BOLTON.

MINUTE OF DISSENT BY MR. T. RANGACHARIAR.

Resolution of the Legislative Assembly
and the terms of reference to the Committee.

1. This Committee was appointed in pursuance of two Resolutions passed by the Legislative Assembly which run as follows :—

‘ That this Assembly recommends to the Governor-General in Council that the powers of control and superintendence over the judicial administration in the North-West Frontier Province, now vested in the Judicial Commissioner and the Chief Commissioner of that province and all jurisdiction, original, appellate or revisional now vested in them and all powers and authority in relation to the administration of justice including the power to make rules for regulating the practice of the courts, and to authorize legal practitioners to appear and practise in such courts, be transferred to the High Court of the Punjab, and that the necessary legislation be undertaken to invest the High Court of the Punjab with the same jurisdiction, powers and authority in the five administered districts of the North-West Frontier Province as are now exercisable by that court in the territories now vested in the Government of the Punjab and the Delhi Province.’

‘ That this Assembly recommends to the Governor-General in Council that a Committee be appointed including a certain number of elected members of the Indian Legislature for the purpose of considering and reporting :—

- (i) whether the separation of the five administered districts of the North-West Frontier Province from the Punjab Province has fulfilled the expectation of the Government of India from the political, military or financial point of view, or has been attended with any substantial advantage to the internal administration, and
- (ii) whether it is expedient to re-amalgamate the said districts with the Punjab Province leaving under the direct control of the Government of India the political administration of the unadministered tracts on the British side of the Durand line.’

It will be noticed that the first portion is a definite recommendation; and the second portion merely asks for a Committee of Enquiry to consider the points arising therein.

The terms of reference to the Committee, though somewhat differently worded, raise the same question in a different form—

- (i) ‘ Whether it is expedient to separate the administration of the five administered districts of the North-West Frontier Province from the political control of the adjoining unadministered tracts ;
- (ii) ‘ Whether, if such separation is expedient, it is expedient to re-amalgamate the five districts with the Punjab ;
- (iii) ‘ Whether if such separation is not expedient, it is expedient (a) to retain the whole province directly under the Government of India, and if so, (b) to constitute a legislative council for the five administered districts ;
- (iv) ‘ Whether, if the retention of the province under the Government of India is expedient, it is expedient to transfer control of the judicial administration to the High Court of the Punjab, and if not, what measures are recommended for the improvement of the existing judicial system ;

- (v) ‘ The approximate financial effect of any proposals recommended.’

The first of these questions is "Whether it is expedient to separate the administration of the five settled districts of the North-West Frontier Province from the political control of the unadministered districts." On this, that it is the most important and most difficult of the questions referred to us, I agree with my colleagues and I have given the most anxious consideration to it. I cannot however bring myself to consider this question so technical as to deprive myself of the right to examine it and treat it as a matter purely for experts. During the course of the evidence and the discussion, some of the official witnesses, as also one or two of our colleagues, including our distinguished President, felt the difficulties of even conceiving the possibilities of separation. The Government of India were apparently of opinion that the question was not so plain as to admit of only one answer—for otherwise I cannot understand the question being referred to this Committee at all. I therefore venture to consider it on its merits.

2. In dealing with this question, we have to remember that political control

Separation of the settled from the unadministered districts.

of the adjoining, unadministered districts, is a recent, though gradual, growth, during the British régime; and it would therefore

be futile to look back to history—whether to Sikh days, or Muhammadan days or even prehistoric days for guidance in this matter.

In the first place, it is essential to ask ourselves why this problem has arisen

Growth of the problem.

at all. By the Proclamation of March 29th, 1849, the Frontier territory up to

Annexation period and conditions then.

the foot of the hills was annexed by the

British as part of the Punjab, from the Sikhs. The state of the Frontier territory during the Sikh régime is well described by my colleagues in their report which it is therefore hardly necessary for me to repeat. The maintenance of internal order was scarcely attempted; blood feuds between districts, villages and families were unchecked, or if at all checked, were followed only by the levy of fines when the Government officers deemed it prudent to interfere. The Pathans continued to govern themselves by their rude and sanguinary laws. The Sikhs were unable to adopt any systematic restraint of these deep-rooted habits and feelings which filled the district with crime and blood. Such was the condition when the Punjab Government took the districts up to the foot of the Frontier hills. For a short time the districts of Peshawar, Kohat, and Hazara were under the direct control of the Board of Administration at Lahore, but about 1850 they were formed into a regular division under a Commissioner. Dera Ismail Khan and Bannu, under one Deputy Commissioner, formed part of the Leiah Division till 1861, when two Deputy Commissioners were appointed and both districts were included in the Derajat Division, an arrangement which was continued until the formation of the North-West Frontier Province. *The internal administration differed in no way from the rest of the Punjab (vide page 90 in the Imperial Gazetteer of India, North-West Frontier Province).* Another authority states "The five districts of Peshawar, Kohat, Bannu, Dera Ismail Khan and Hazara were administered on the same system as the rest of the Punjab" (*vide page 8 of Mr. Ewart's book*).

To maintain the peace of the border, a special force known as the Punjab

Punjab Frontier Force.

Frontier Force was raised under the direct orders of the Board, which continued under

the control of the Punjab Government till 1886, when it was amalgamated with the regular army.

It is not within our province to discuss whether the Punjab Government managed the Frontier well or ill. But so far as the settled districts are concerned, the attitude of the people during the Mutiny of 1857 is the highest tribute that can be paid to the success of the internal administration—especially where these districts had experience only for a bare eight years of the first beginnings of settled rule—(*vide page 19 of the Gazetteer*).

3. Expeditions, in large numbers, against the Frontier tribes, during the early

Condition of the Districts in 1883.

years of British rule till 1883, were measures required for the establishment of a strong

rule and a peaceful border in countries which had never before known law and order. There were 17 such expeditions between the annexation and the outbreak

of the Mutiny. Between 1857 and 1878, there were only a few important operations.

Between the outbreak of the second Afghan war and the Pathan revolt of 1897, there were 16 expeditions against Frontier tribes, of which eight took place before peace was concluded with Kabul. By the adoption of such measures, by the Government of the Punjab, from time to time, comparative peace on the border was secured by the year 1883. Thus we find it stated (at page 59 of the Gazetteer of Dera Ismail Khan of 1883): "The crimes of the district present no marked features. There is a good deal of cattle-stealing in the Kachi and a fair amount of ordinary theft and house breaking everywhere. Dacoity is almost unknown and cases of highway robbery and violence are infrequent and, except when the hill tribes are at open war with our Government, rarely occur on the border. A few murders occur now and again, mostly in connection with women. Ordinary assaults are, of course, common enough, but affrays, in which large numbers take part on each side, are very rare, and are seldom accompanied with any real fighting. Regarding the Waziristan border, we find it stated at page 165 of the same volume—"Raids and offences of all sorts have, during the last two or three years become exceedingly rare." We also see it stated in the Gazetteers of the same year of the Kohat District:—"As a general principle, the border villages of this district have been supposed capable of defending themselves from the incursions of the trans-border tribes. Their inhabitants are men of warlike races, who used to hold their own previous to annexation. Now and then, troops have marched to the hills to punish a tribe for lifting cattle and for such like offences. But cases in which trans-border tribes have come down in sufficient strength to plunder and burn British villages have been exceedingly rare. No such cases have occurred even on the upper part of Samilzai, which is most exposed of all to hostile incursions"—*vide* page 140, Kohat Gazetteer.

The condition of things ultimately arrived at is thus described by Sir Dennis

Situation from 1896—1901.

Fitzpatrick in a note which he prepared in 1896: "Raids, in any force to speak of, across the frontier of British India, which were formerly so common, are now practically unknown, and we have to deal only with crimes of the type which always does, and must, prevail even in British India where we have to do with turbulent people. Punitive expeditions properly so called have practically done their work and have now almost ceased to be necessary." If that was the condition of things in 1896, it may well be asked how the summer of 1897 found the country in such an inflammable condition. The answer to this is found at pages 16 to 19 of Mr. Ewart's book: "The development of the frontier proceeded normally from 1880 to 1897. * * * The gradual extension of British control over the frontier tribes necessitated various punitive and other expeditions. * * *" The frontier tribes had watched this penetration of their hitherto independent villages with growing anxiety. The demarcation of the Durand Line, with its accompanying definition of spheres of influence; the setting up of political agencies, and, finally, the passing of troops in all directions through their territories, and the garrisoning of these tracts which were not only strategically important but were the most fertile parts of tribal country—all this was regarded as part of a deliberate menace to their independence. Such a menace was bound to arouse the ever present fanaticism of the Pathan. The result was a revolt against the government—which however was speedily put down.

This revolt did not seriously affect the result already achieved in 1896—for we find in the Administration Report of the Punjab of 1898-1899 stated at page 8: "Fortunately the history of the frontier, during the past year, has been more peaceful than in 1897-98, though the gradual simmering down of the excitement due to the risings of the previous year has probably caused a considerable recrudescence of crime on the Waziristan border. The only portion of the border which was seriously disturbed during the year is the small corner lying between Bannu, Kohat, the Tochi and the Kurram, which is at present not directly or entirely under the political control of any one officer. Hazara reported that, for some years past, there was little to record of its frontier, which was one of peace undisturbed. The Mohmands who had been debarred from holding any communication with the Peshawar District for some time made overtures, and full compliance with the

terms imposed. The Aka Khel tribes were brought to their senses by a large reprisal on the whole tribe. Since then all has been quiet."

Dera Ismail Khan reported "no serious offences."

In the Report of 1899-1900 of the Punjab, we further find it stated at page 2: "Except for the misconduct of Mahsuds, the history of the border is fairly satisfactory." After the first year of the formation of the province, we find it stated: "There was increased security all along the border." *Vide* the Report, 1901-03, page 6, and again at page 12 it is stated: "The frontier enjoys complete peace", Wazir outrages having been checked. In fact, for the first seven years after the formation of the new province, the frontier enjoyed almost unbroken peace. *Vide* page 26 of Mr. Ewart's book.

4. Such was, in general, the state of the districts, when, in the face of considerable opposition and grave misgivings in some quarters, Lord Curzon's scheme for creation of the North-West Frontier Province, and the separation of these districts from the Punjab came into effect by which established administrative units of the Punjab province were broken up, and "the whole executive power on both sides of this external frontier was vested in the hands of a single Commissioner without the restraint which a trained experience of financial and administrative responsibility on a large scale imposes upon an authority charged with the governance of a first class province." The object with which this severance was made was "that the conduct of external relations with the tribes on the Punjab frontier should be more directly than heretofore under the control and supervision of the Government of India."

The Secretary of State, in sanctioning the general idea underlying the proposal, stated thus: "But in the case of the settled districts, which you propose to detach from the Punjab, it is clearly undesirable that the people, who had already enjoyed benefits of a highly organized administration—with its careful land settlements, its laws and regulations, and the various institutions of a progressive civil government, *should be thrown back from the stage which they have already reached.* The Governor of a large province not only possesses a special and large experience of British administration but can summon to his aid and counsel heads of departments and Commissioners of Divisions whose advice may be of the utmost value. The Governor-General's Agent will not without special arrangement be able to count on such assistance. I have not overlooked the fact that Your Excellency intends to draw upon the Punjab for skilled officers in the subordinate branches or in the technical departments. But I am not satisfied that this will meet the whole case. For the important question of *superior direction* remains to be dealt with. Nor does the recent experience of Baluchistan appear to me to be altogether relevant since no part of that Agency can claim to have a district or part of a district in any respect *so advanced and settled as the Trans-Indus British districts which you propose to detach from the Punjab.*" He further added: "It seems to me probable that in so small a province it will not be easy to *keep the staff at the requisite level of efficiency* unless picked officers are largely imported from other provinces." He dwelt largely on the "advantage that must accrue to the Frontier districts of British India from the application to them of the ways and means at the command of a *first class administrative unit.*" "The necessities of districts are best secured if they form an integral part of a large province." He concluded in these words "*If it is necessary to transfer the settled districts from the control of the Punjab Government and to place them under the same administration as the adjoining tribal country, it is important that the possible results of such a policy should be fully considered and provided for.*" And finally when he conveyed a general sanction to the detailed scheme which went up in 1901, he observed "that for the time being it could only be regarded as experimental and that its actual working would have to be carefully considered"

5. The experiment has been tried for 21 years and this is the first opportunity the Government of India have availed themselves of to consider the results of its actual working.

Results of the working of the New Scheme now under examination for the first time.

At the time of the separation as already pointed out the internal administration of these districts was on the same lines as the rest of the Punjab. A Legislative Council which had been created for

Jurisdiction of Legislative Council removed. the Punjab in May 1897 had jurisdiction over the British districts of the North-West Frontier until by the constitution of the latter as a separate administration in 1901, its jurisdiction was withdrawn with the result that the Frontier Province has no Council now (*vide* page 59, Gazetteer North-West Frontier Province).

The reforms either under the Morley-Minto Scheme of 1908 or the Montagu-Chelmsford Scheme of 1919 which would have automatically applied to these districts if they had not been separated, did not apply. There were twelve Municipalities under the Punjab Government,

Municipal and Local bodies—indifferent treatment accorded.

it having first begun with six under the Act XV of 1867. In 1904 there were 10 Municipalities and now they have dwindled back to the original six (*vide* Report of the North-West Frontier Province on the working of the Municipalities 1920-21).

Like other portions of the Punjab up to 1903, the non-official members of the District Boards for the Abbottabad and Haripur Tahsils were appointed by a system of election which was, that year, given up by the new administration on account of "the apathy shown by the people in these elections" and there is not a single municipality in which the election system has been introduced and the proposal to resort to election in one instance which was started at the instance of the Government of India after interpellation in the late Imperial Council was abandoned—only last year in deference to the opinion of "most responsible" people in Peshawar that the system is unsuited to a frontier city.

True, in the Punjab also the elections to the Municipal Councils and District Boards were generally marked by indifference even as late as 1911-12 (*vide* page XI, Punjab Administration Report 1911-12). But the policy pursued by that Government was to assist the development, in every possible way, of the growth of real civic spirit and every effort was made to foster a sense of responsibility, so that, steady, though slow, progress was obtained in the matter of local self-government by about 1918-19 (page IX, Punjab Administration Report of 1918-19). These districts if they had remained part of the Punjab would have profited by such a policy.

6. Substantial advance has been made in the spread of the co-operative movement in the Punjab Province under a special department. Central credit societies developed; primary agricultural societies were formed; cattle insurance societies likewise grew up (*vide* the Punjab Administration Report of 1918-19). As early as 1911-12 the Punjab Government records that in no direction has progress been more striking than in the development of co-operative societies (*vide* paragraph 34, Punjab Administration Report 1911-12). The difficulties such as there were in the spread of this movement, whether in the case of agriculturist societies or in the case of weavers' societies in urban areas, were met with a firm resolve to surmount them. These benefits, again, the five districts were deprived of, because of the separation. The powers of interpellation and the moving of resolutions granted to the Legislative Council by their reconstitution in 1909 were freely availed of and here once more these districts lost the benefits of a participation in such exercise of legislative powers.

Considerable activity was displayed by the Legislative Council in amending and passing laws suited to the changing needs of the province. Likewise, systematic improvements were made in every direction which certainly would have benefited these districts also but for their separation.

There were no less than 218 newspapers published in the Punjab so early as the year 1912; whereas in this province there is even now not a single newspaper, though it is stated that for a short time, there was a newspaper, which however soon ceased to exist. There is not a single political association in

these districts. It cannot, therefore, be denied that these districts have, by their separation, been deprived of the benefits of the laws and regulations and of the various institutions of a progressive civil government and that they have been thrown back from the stage they had already reached by the time of their separation. The fear expressed by Lord George Hamilton in his Despatch of the 20th December 1900 has turned out only too true.

7. The reasons for separation (as has been already stated) and for the formation of this new province concerned purely and solely the management of the political relations with the frontier tribes and the separation of these districts followed, as this was considered the only practical arrangement that they should be placed under the same control and authority as the tribal areas.

It may be asked, why is it the Government of India have been anxious to bring the independent frontier tribes more under their control? In the words of Sir Henry Brackenbury—the reasons were “(1) to prevent them raiding in times of peace; (2) to have them on our side in times of war.” We have, now, to examine whether the actual results achieved in these directions by the formation of this

Expectations not fulfilled—Increased Insecurity to life and property.

province during the last 22 years justify the action then taken. Reference has already been made to the condition which prevailed on the border about the time of the formation of this province and immediately thereafter. I have been shown an official compilation which quotes

1907.

Sir Harold Deane, the Chief Commissioner, as advocating a Forward Policy in 1907 on the ground that the attempt to maintain peaceful relations with the Mahsuds had resulted in inordinate expense, and a widespread conspiracy to terrify Government by assassination. I have been shown also various confidential

1908.

border reports. The border report of 1908 records a steady growth of kidnapping and that the tribes had been arming themselves during the last three years. It also records that the tribal territory was the best market for arms, that troops were not available, on account of some recent orders, to assist the civil authorities. The Chief Commissioner felt the necessity for strong border villages and pointed out the futility of the policy of trying to induce the tribes by personal influence, persuasion, threats, and bribes, to police the border for us. He recorded the fact that formerly people of well-behaved villages on the border in British territory were allowed to possess arms and could in their walled villages hold their own against raiders. And he regretted that the order issued against the unanimous opinion of the local officers in 1900 withdrawing that privilege had not been cancelled, seeing that it had left British subjects exposed like sheep to wolves, and that the situation was becoming very difficult with heavily armed tribesmen, defenceless villages, and untrained military police and militia in the place of an active well-armed frontier force.

In the report of 1909-10 an improvement in the arming of villages had good effect; but we find in 1910-11, an account of gangs of professional outlaws, and the summer of 1910 left the frontier in a state where life and property were not safe even in the main routes and people had to pay double revenue—one to Government and the other to dacoits and the border military police could not be relied upon as they were ill-trained, ill-disciplined, underpaid, and without hope. The conditions apparently became so unbearable on account of the steady growth of kidnapping that we find interpellations in the Imperial Legislative Council in the years 1911 and 1912.

“At that time the Hindus were a wealthy people in the village parts and as such were bound to suffer in the course of depredations at the hands of the frontier tribes.” Later on we find “that the attention of the raiders is devoted impartially to representation of both religions.” (*Vide* Police Report for 1920.)

8. Encouraged by the fact that the partition of Bengal, which was also one of the acts of Lord Curzon, had been annulled in 1911 and in view of the readjustment of the province of the Punjab after the creation of the province of Delhi, the resi-

Agitation for re-amalgamation in 1911-12.

dents of Dera Ismail Khan and Hazara repeated a request, which they had made at the time of the separation itself, to keep their districts "peaceful and settled districts," at least as part of the Punjab. To this effect memorials were sent. They contended that separation had not proved advantageous; that the head of the province had very little leisure left to him to give his undivided attention to the settled districts; that the main purpose for which the province was carved out had not been accomplished as there was a recurrence of so many raids and dacoities. They further pointed out that they were not where they were before the separation but had been thrown back some fifty years. This shows to some extent at least that the separation was unpopular in the beginning and an early opportunity was taken by the people to re-agitate this question. (*Vide* Appendix 34.) This further shows that the people did not submit to the separation without protest and that the separation had in their judgment disastrous results. In his

1915-16.

Confidential Report of 1915-16, which I have been shown, the Chief Commissioner remarked that tribal allowances had in many cases failed to secure the friendliness of the tribes, and stated that insufficient use was made of the hold we possess over them in their dependence during the winter months upon intercourse with British districts. He cited the history of Dera Ismail Khan as one long tale of rapine and outrage and said that in the northern half the people were endeavouring in despair to sell their property and leave the country. What a contrast to the description in the Gazetteer of 1883 already quoted! He further remarked that the insecurity of life, property and honour in the districts bordering on Waziristan made it difficult to understand why the people had not moved *en masse* across the Indus, and he referred to the superhuman but fruitless efforts made by Government. The Confidential Report for 1917-18 stated that the Dera Ismail Khan people could sleep occasionally in their beds after persistent harassment for five years. In

1920.

1920 tribal lawlessness was rampant and an attempt is made in the report to justify the inaction on the part of the Government. Questions were asked in the Imperial Legislative Council in the year 1920 by Mr. Surendranath Banerji and others and we find articles and letters in the *Tribune* that year wherein the question of re-amalgamation and the unsatisfactory condition of the frontier province is prominently discussed.

Reference is also made in the correspondence published in the *Tribune*, under the heading "An experiment that failed: the North-West Frontier Province," to the Resolution passed in the Punjab Provincial Conference held at Jullundur (*vide* issues of the *Tribune*, dated March 27th, 1920; April 3rd, 1920; April 5th, 1920; May 23rd, 1920; September 29th, 1920).

Lala Harji Mal in his Memorandum referred to the fact that when Colonel Wedgewood visited Peshawar in 1920, the people put up arches asking for re-amalgamation with the Punjab. The position must have been serious, for an authoritative document, already referred to, to which I have had access, cites the Chief Commissioner as declaring on the 25th August 1919 that Government's unwillingness to adopt a Forward Policy argued an apparent indifference to the chronic state of raiding and outrage to which the people of the districts were subject, without hope of compensation for their losses. Mr. Barton is cited in the same military compilation as holding about the same time that any sort of moral or material progress was next to impossible without a Forward Policy. Mr. Sachidananda Sinha also gave notice of a Resolution in the Imperial Council in 1920 raising the question of the re-amalgamation, which was ready for discussion but was not reached. Mr. Phipps in his Memorandum, dated the 15th May 1922, refers to this fact as he had to prepare a note for that expected discussion. By 1920 therefore the people again began to re-open the question of the separation and there was strong agitation.

9. Taking as the text the memorial presented to the Chief Commissioner by the Hindu community of Bannu, the Chief

Growth of serious crime and the helplessness of the people and of Government even then manifest.

Commissioner in a very welcome but belated and overdue circular, dated 24th of August 1921, refers to the "appalling injuries suffered by our citizens, the dishonour of women, the upheaval in family life, the

grief and anxiety in the home, the natural resentment at the impotence of Government in protecting its tax-paying subjects" and further remarks, "Indeed the only creditable feature of the business is the marvellous patience shown by those whom it is our duty to protect more stoutly." He laments "*The loss of the old grip and decay of virility in dealing with cases of this kind.* Executive energy seems to have rusted in the sheath and a wooly and belated political settlement with the tribe concerned is too often accepted as an adequate solution of wrong inflicted." Stronger words have not been used by the numerous witnesses who have given evidence before this Committee. The figures relating to crimes show a steady and appalling growth, *vide* Appendix No. 21, and figures given in the attached statement. The figures relating to raids have to be noted carefully.

From Police Reports.

<i>Serious crime.</i>				<i>Number of murders.</i>		<i>Raids.</i>	
			1901	..	..	197	..
			1902	..	..	291	..
			1903	..	..	208	..
			1904	..	..	151	..
			1905	..	..	176	..
1906	2,458	1906	..	160	41
1907	2,520	1907	..	192	56
1908	2,885	1908	..	175	99
1909	3,101	1909	..	255	159
1910	3,316	1910	..	272	114
1911	3,827	1911	..	322	71
1912	3,663	1912	..	316	165
1913	3,998	1913	..	394	345
1914	3,561	1914	..	416	292
1915	3,638	1915	..	400	223
1916	3,777	1916	..	353	189
1917	5,094	1917	..	474	611
1918	5,469	1918	..	644	391
1919		1919	..		
1920		1920	..		

Again, it is not only the increase in the number of crimes but the nature thereof which calls for notice. So early as 1908 a gang of nearly 30 people entered the city of Peshawar, posting sentries on points overlooking and commanding the Andar Shahar—in this premier city in the province, looted the houses of Chela Ram and Kirpa Ram, both men of great wealth. The raiders were able to make good their retreat after killing 2 policemen and 2 chowkidars and taking away Rs. 43,444 worth of loot. This was on the 28th of January 1908. On one occasion a large amount of property belonging to an officer of the 57th Rifles was carried off in broad daylight on the Kohat-Bannu road. On another occasion in 1909, the Naib-Tahsildar of Bannu was kidnapped on the same road whilst travelling in the Mail tonga.

In the report of 1909-10 the Inspector General of Police refers to the increase of kidnapping raids in Bannu and thinks that they are due to the bad example set by the relatives of the kidnapped Hindus in getting them released by payment of ransom.

Reference is made again in the report of 1910 to a gang of dacoits cutting their way through troops, both horse and foot, after causing 20 casualties. As to kidnapping, the District Magistrate of Bannu also remarked on the bad example set by the Hindus of ransoming their kidnapped relatives. The Sessions Judge comments on that thus:—

"The unfortunate people have no choice in the matter. They get little assistance from their Muhammadan villagers. Indeed many of them no doubt share in the ransom; and so far the Government has been able to do little to help them." The Judicial Commissioner, agreeing with the Sessions Judge, adds further: "In consequence of the insecurity of life and property many Hindus have removed

with their valuables for refuge to the towns of Bannu and Lakkhi." This was as early as 1909.

This migration, by the way, from the village to the town is also a noteworthy feature. In paragraph 105 of the Report of the North-West Frontier Province for 1901—03 we find it stated as follows :—

"The North-West Frontier Province is almost wholly agricultural. The urban population is only $\frac{1}{4}$ th of the total, and shows no tendency to increase at the expense of the rural. There are no large industries to attract the population to the towns. Those that are towns now, except Peshawar and Dera Ismail Khan, are either expansions of large agricultural villages, or bazaars which had grown up round the many cantonments of the province."

But if we turn to the recent Census figures (*vide* Appendix No. 18), since 1911, the migration of the Hindu and the Sikh population to the towns seems to have been very large. The rural population decreased from 68,083 to 58,042 which makes a decrease of 16 per cent. Whereas the urban population has increased in the same period from 81,456 to 109,879 which makes an increase of 47 per cent.

These figures gain significance when taken along with the Judicial Commissioner's statement referred to above. But, alas! even towns have become unsafe now that daring raids are made into walled cities or even into cantonments, protected as they are by barbed-wire fencing.

In 1909, the two cases referred to at page 53 of the Appendix, of the incursions into Bannu City, when four children of a poor clerk were taken away (whom after a delay of months, he had to ransom back by paying Rs. 20,000) from the heart of Bannu City; and the case of the attack on the Hindu Ashram inside the city walls, are terribly instructive in this respect. The attack on Karam Chand's house in Peshawar and other attacks in other walled cities instanced by witnesses before the Committee in their evidence are other examples indicative of the amount of security enjoyed even by towns.

10. Turning now to the second of the objects of bringing the independent frontier tribes under the control of the Government of India—*viz.*, "to have them on our side during the time of war"—the policy hitherto pursued has apparently not proved a success. In 1894 Trans-frontier policy was reviewed and certain facts and conclusions were stated which, according to the authoritative document already referred to, applied equally to the situation to-day. Briefly the reference was to the old uncertainty of the attitude of the tribes and the old attempts to face both ways. The military advocate of a Forward Policy urged that we were faced with a very similar situation now except that the Province had been raided and harried continuously in the meanwhile; that we were placed in a extremely difficult position during the Afghan War in 1919; that much money had been spent and many lives lost in punitive expeditions, and that the tribesmen had become much better armed; that the system introduced by Lord Curzon in 1899 of tribal militia and allowances had, after 20 years' trial, failed completely under the first real test of religious fanaticism, and that the system ought to be replaced by a Forward Policy. This is rather important as that system was also part of the scheme of the separation and formation of this province. It appears that the policy advocated by Lord Curzon of withdrawing regular troops to cantonments in the rear and the entrusting of frontier posts to be held by the Militia did not stand the test of the wave of fanaticism which flooded the border in 1919 and at a very critical moment landed us in a very trying position.

11. The situation to-day on the frontier is admittedly grave, very grave (*vide* Mr. Ewart's evidence). In answer to my question "Do you think the trans-border tribes are such a danger to this country?" he replies "yes, they are a great source of danger." (Page 325 of Volume II of Evidence). The answer elicited to my question "what, do you think, has been the effect of the last 30 years' policy of the Indian Government towards the

trans-border tribes; has it been effective?"—was "I certainly should not say ineffective. It may not have resulted in the full realization of the hopes of the authors". (Page 324 of Volume II of Evidence.) To my leading "you think the policy is resulting in making friends with them", he rejoined "In the main essential principles of the policy, I think we *will* succeed" (mark, the tense is future). He pointed out that one of the remarkable features in the frontier policy is "that there never has been as much as 20 years' continuous progress. That makes it exceedingly difficult to judge of the results of the policy. Answering another question, he says "all along the tribes have played this double rôle"—having previously replied 'yes' to my question "As I gather, your trouble is this the trans-border tribes are corruptible material and there are 2 if not 3 possible agencies which are inimical to us and these inimical agencies are likely to tamper with them and thereby make them a source of danger"—Mr. Pears gives evidence thus:—

Q.—Which of the tribes is the most troublesome?

A.—There are many competitors for that honour.

Answering another question, he says 'Relatively, I admit that the formidable nature of the tribes was nothing so great in 1900 as it is now', and when questioned 'Is the situation growing grave' he replies 'I think it is already very grave and it is bound to grow graver unless some very striking change is effected.'

Q.—Things are growing more and more complicated in your experience?

A.—Yes, inside districts as well as outside.

Q.—So that the Chief Commissioner's charge is becoming more and more difficult?

A.—Yes.

Colonel James also takes the same view.

In the face of such admissions by such responsible people it will be unsafe to draw any inference, contrary to these admissions, as Sir John Maffey and my colleagues ask us to do, from the lucky escape during the Great War from any great conflagration on the frontier.

12. Thus to put it mildly, it can hardly be claimed that the experiment has proved a success in the face of what has been stated above in either direction. We

Experiment of separation a failure.

Point of view of the Districts examined in detail.

have now to examine the question from the point of view of the districts more closely. It has already been shown that the situation as regards security of life, property, and honour, has been steadily growing weaker and weaker; and this tendency began to be felt some four or five years before the war, within a very few years after the formation of the province when the old traditions of the Punjab rule gradually and finally made way for the new régime about 1907-08. *Post hoc, propter hoc*, is certainly not a sound rule to go upon. To take it for granted that the present state of affairs is entirely due to world causes, the Great War, the Afghan trouble, and the Khilafat or non-co-operation agitation, and the increase in arms, jointly or severally, as has been done before us by several witnesses speaking on the official side, including the Chief Commissioner, will likewise be a wrong perspective. For, this tendency to decline manifested itself clearly and definitely even before any of these causes began to operate, as has been shown already.

We have now to see whether the system of administration introduced for the districts after their separation has not been at least one of the principal causes, if not the main cause, to which it is true the other subsidiary factors mentioned above contributed their quota in later years and which quota it is admitted was not an insignificant reinforcement.

System of joint administration of districts and tracts—a principal cause.

In theory, no doubt, the Government of India took up the direct administration of these districts as well as of the border control. But in actual practice, the Commissioner took the place of the machinery of the Punjab Government and continued in himself the functions of both the Commissioner of the two divisions whom he displaced as also the supervision and control "of a strong administration

equipped with all the resources of Government " which also he displaced. He was also the Agent of the Governor-General so far as the trans-border affairs were concerned. The Government of India is not equipped with the machinery for carrying on the ordinary civil administration of a province, as a first class provincial Government is.

13. It was anticipated that a small frontier administration would be expensive and inefficient for lack of senior supervisors and that there would be a tendency to subordinate the rights of inhabitants of the directly administered districts to considerations of policy as regards the tribes or Afghanistan. The Chief Commissioner and all the chief responsible officers formed part of one service—the political service—which was organized and trained more for external and foreign politics than the internal administration. The policy to be pursued by him towards the tribes had been laid down for him by the Government of India at the time of this change and that was "to depend upon keeping the tribesmen in good temper." The Deputy Commissioners in charge of the district were responsible to him and not to any other strong Government as was the case before. The Political Officers and the Deputy Commissioners had to pursue that policy so that strong and retaliatory measures to be taken then and there were not taken for fear of offending the tribes although there was often provocation grave enough for it.

14. The separation of the province from the Punjab was due to an apprehension that the Punjab Government had shown aggressive intentions during the 80's and 90's and when a new government was placed in charge displacing the former one, its tendency naturally would be to dispel by its action, even at the expense of the people of the settled districts, the suspicion engendered or supposed to have been engendered in the minds of those tribes, *vide* Mr. Ewart's Book. The first misgiving which the Secretary of State entertained about the new arrangement, *viz.*, the danger of placing one man in sole executive charge of both the sides began to manifest itself soon after the formation of the province in several directions. The deterioration no doubt was not noticed for some time as the administrative machine ran on the old grooves. It was originally anticipated that the Chief Commissioner was to have *some only* of the powers of a local administration. But he assumed all the powers very soon. A Revenue Commissioner was appointed as the controlling and final appellate revenue authority and he was to be responsible for the framing of the annual budgets of the various departments under his charge, and he was to be the financial authority, as he was to be the Revenue Secretary, to the local Administration. Somewhere about 1909, the Chief Commissioner, even without the knowledge of the Government of India, deprived him of this position and took that power unto himself and his Secretary.

Thereby all financial control on proposals, and sanctions, by an expert officer was removed. It is after this, that the flood-gates of extravagance were opened as it were; and a scheme which had been sanctioned on the faith of a representation that the extra cost involved thereby would not exceed 3 lakhs and odd inclusive of both trans-border and cis-border expenditure is now costing *more than five times what it was at the start*. From the year ending 1901, November, to 1903, April, the revenue was 36 lakhs and the expenditure 51 lakhs. In the years 1909-10 the revenue was 56·91 and the expenditure went up to 106·85; the expenditure on the internal administration exceeding the revenue by 14 lakhs but if civil works were excluded as an Imperial item then the expenditure on the internal administration would have been less than the revenue by about 7 lakhs—*vide* Administration Report for 1909-10. But it is after the years 1909-10 that the expenditure went on increasing without any limit. In 1918-19 the expenditure on internal administration was 73·36. To-day that expenditure alone is 130·55 which exceeds the revenue by about 60 lakhs, and if the trans-border expenditure is added the deficit will be 2½ crores. This distribution between cis-border and trans-border expenditure was recently made by a

special officer, Mr. Dutt, in consultation with the heads of departments as also with the Secretary to the Chief Commissioner and these figures have been supplied to the Committee. One cannot resist the conclusion drawn in some Finance Department noting dated the 29th April 1922, to which I have had access, to the effect that the North West Frontier administration has very little incentive for economy. An attempt has since been made to make a further redistribution between the expenditure on the settled districts which however would not affect this conclusion. If you deduct on one side, you will have to increase on the other and the same officer is responsible for both. That the inefficiency of the protection afforded to the tax-payer of the settled districts was not due to any tendency of niggardliness on the part of the Government of India will be apparent from the fact that the expenditure on the ordinary police alone is now nearly 31 lakhs whereas it was only 5.2 lakhs in 1902 (*vide* page 26 of Mr. Short's Memorandum). The strength of the police on the 31st of December 1902 was 3,113 whereas last year (*i.e.* 1921) it was 5,471. This is exclusive of the military police on which a further outlay of 23,95,000 is incurred—which was only 10,60,000 as recently as 1918-19. It cannot be said that money was not fully available for political expenses, for, whereas the expenditure on that item stood at 20 lakhs in 1902-03, it has now risen to 118 lakhs and it may be noted it stood at 48½ lakhs only in 1918-19.

A few items of expenditure are worth mentioning. For this small, miniature province, a training college has been started recently in 1916, which costs about Rs. 35,000 per annum, and for which a very costly building is being put up and very nearly completed. This so-called college trains teachers (1) for the junior Anglo-Vernacular and (2) the Senior Vernacular classes only. In the junior Anglo-Vernacular class, training is given for two years. There are no students in the first year class because there is no scope in the province for persons trained in the college and even in the 2nd year course there are only less than half-a-dozen pupils. The two Inspectors of Education, who have given evidence before this Committee, say that there is no need for such a college, and that although they are the two senior educational officers of that province they were not consulted at all on it. The cost of training each pupil in this college was 3,144-10-8. Till 1920, the average attendance of the college was only nine (9) when a new Vernacular class was added with 20 stipendiaries and for this institution, we have got a principal, a vice-principal, and professors. Such extravagance is bound to result whenever you have a miniature province like this with a separate administration. It is impossible to avoid the temptation of having all this paraphernalia of a government, especially when it is so close to a first class province.

The Irrigation Department may also be mentioned. Till 1915 this was being managed for this province by the Punjab Government. This province was naturally ambitious to have a department of its own as the Chief Commissioner would have to be master in his own house with the result as is disclosed in answer to an interpellation by Mr. Shahani in the Assembly on the 23rd of March this year, *viz.*, in 1918-19 the net loss was Rs. 4,39,974; in 1920, Rs. 5,08,231 and in 1921-22, Rs. 6,91,331.

Education undoubtedly has made relatively good advance within recent years in the district—a very good advance indeed. It may be stated that the policy pursued in the province till about 1909 seems to have been “to avoid the danger of educating a class for whom there was no employment which they hoped to achieve by making the student pay highly for advanced education (*vide* the report on Education, 1909-10). These districts, it should however be stated, have made more progress in education now than they did when they were under the Punjab. But the same advance would have been secured at a much lesser cost if these districts formed part of a larger unit. Reference has already been made to the training college. For educating 132 students, 2 Arts Colleges were maintained in this small province. The forest department is worked at considerable loss of 2 or 3 lakhs of rupees, agricultural farm is run at an annual loss of Rs. 3,000 to 4,000 (*vide* Colonel James' evidence) and if the province is to be equipped in all directions—such as engineering, medicine, technological and other institutions, the cost is bound to be prohibitive.

It was suggested that the Punjab was likely to neglect these frontier districts. But with a Minister in charge of Education, responsible to the Local Council in which these districts will be adequately represented, such an apprehension is reasonable neither to entertain seriously nor to accept. It has to be remembered that in geographical extent these five districts are less than four average districts of the Punjab and likewise that in population—area, the whole of the North-West Frontier Province is much less than even the smallest division in the Punjab.

15. This province has got all the departments of a first-class province. The annual reports are issued by this province under all the following heads which may be noted with advantage :—

A miniature province with all the departments of a first class province. Inefficiency.

- (1) Forest,
- (2) Sanitation,
- (3) Excise,
- (4) Civil Justice,
- (5) Criminal Justice,
- (6) Administration of the border,
- (7) The Police.
- (8) Land Revenue, Land Record, Government Litigation and Estates under the Court of Wards,
- (9) Agriculture,
- (10) Jails,
- (11) Municipalities,
- (12) Dispensaries,
- (13) Chemical Examination,
- (14) Vaccination,
- (15) External Land Trade.
- (16) Stamp returns,
- (17) Season and crops,
- (18) Kharif crops,
- (19) Joint Stock Companies,
- (20) Archaeological Survey,
- (21) Irrigation,
- (22) General Administration Report,
- Public Works Department,
- (23) Public Instruction,

and so on.

However extravagant it may be, an administration cannot find a separate head for each of these branches. Hence here the Revenue Commissioner has by himself to control the following departments :—

1. Land Revenue.
2. Opium.
3. Stamps.
4. Excise.
5. Assessed taxes.
6. Forests.

7. Registration.
8. Scientific and other minor departments.
9. Civil Works.
10. Refunds and drawbacks.
11. General Administration.
12. Stationery and printing.
13. *Ecclesiastical.
14. Minor Irrigation works.
15. Famine Relief.
16. Miscellaneous.
17. Industries.

Apart from this list of departments controlled by him, he is also Registrar of Joint Stock Companies, Registrar of Co-operative Societies, Registrar of Births and Deaths, Inspector-General of Registration, Commissioner of Famine Relief, and he is the Final Court of Appeal in revenue matters.

The ways and means at the command of the Punjab Government in these respects could easily have been availed of, without all these make-shift arrangements if these districts had remained part of the Punjab and it is well we are reminded here of the fear of the Secretary of State that "it is probable that in so small a province it will not be easy to keep the staff at the *requisite level of efficiency*."

Here are a few official statements made in the various reports which throw considerable light on this aspect of the question.

In the Report of 1911 the Judicial Commissioner remarks :—"The number of offences reported during the year was the largest received since the creation of this province. It is a regrettable feature of the situation that crime of the more virulent type has shown a progressive tendency to expand. Burglary is more rife than at the commencement of the decade. In view of these outstanding facts it must be admitted that crime is spreading. The most potent cause of the present conditions is that a great part of serious crime goes unpunished ; partly because most cases never reach the stage of a trial in court at all. The obvious inference is that our present machinery, police as well as judicial, is not fully adapted to the conditions of the province."

The Chief Commissioner would not admit it. This was in 1911. But he tried to throw the blame on the indifference of the people to truth.

In the Report of 1912, the Judicial Commissioner remarks :—"It is undesirable that Naib-Tahsildars, most of whom are inexperienced, should be made responsible for a large part of the criminal work." The Sessions Judge, Mr. Renny, remarks :—"The most disquieting feature of the year was the alarming increase in violent crime. That serious crime is in the upper grade cannot be denied." He refers to the fact that "political considerations make it desirable in recognition of Pathan sentiment to permit the repatriation of outlaws ; and if repatriation is made easier it is not without significance that the policy should coincide with a general all-round increase in crime. The immunity from punishment cannot but have a disastrous effect on potential law-breakers. Apart from the inherent difficulty of the problem of detection, the *progressive abandonment* by the police of the *time honoured methods of detection*, added to the low percentage of conviction", he considers "is an added encouragement to the professional depredator." He further remarks that in many cases the burglars and thieves had many of the Khans and the leading maliks on their side.

In the Report of 1914, after a comment on the unsatisfactory disposal of cases by Magistrates due to slovenly procedure, slackness in disposal, and inefficiency, the conclusion is drawn by a district magistrate :—"This is the result of recruiting Extra Assistant Commissioners not on merits of education and fitness but on those of family position." As early as 1909,

Political considerations predominant.
Frequent changes in personnel of officers
due to system.

the evils resulting from too frequent changes in the personnel of district officers had also begun to be felt and to be adversely commented on in Judicial Reports. The period between 1902 to 1905 was hall-marked in the history of the Peshawar District for a fall in crime and this coincided with the fact that both the Deputy Commissioners and the Superintendent of Police were uninterruptedly together in the district and therefore were able to apply system, local knowledge, experience and influence. The local administration was advised to avoid frequent transfer of officers. As early as 1908-09 the difficulty was felt that the Provincial Service or rather the officers in general had suffered a loss to their prospects by transfer to the small cadres of the North-West Frontier Province (*vide* the report of 1908-09).

By 1909, it was also felt that none of the superior judiciary had much legal training and by 1914 the criminal work of the magistrates was characterised as 'not good' for the reasons either that they were inexperienced or that they had fallen into a groove from which it was impossible to displace them. In the Civil Administration Report of 1912, Mr. Bunbury, the then Judicial Commissioner, states as follows:—"Two of the most important posts of District Judge and Additional District Magistrate in this province were held by officers who were not fitted by their previous training and experience for their appointments. The Judicial Commissioner considers it his duty to draw attention to the inconveniences of a system which necessitates the posting of comparatively senior officers of the Political Department to judicial appointments in this province for which they are not properly qualified. Such postings are made because the officers cannot conveniently be provided for otherwise. The system cannot fail to affect injuriously the interests of the public. *The protest is directed against the system and not against individual officers concerned.*" Owing to the difficulties inherent in the arrangement of postings of officers in a small province, the Chief Commissioner in his remarks in 1911 refers to the detrimental effect of frequent transfers.

Mr. Tucker, Judicial Commissioner, as he went on leave, thought it his duty to place his view that "the work of the Court has suffered by the inexperience of many of the officers appointed to judicial duties. The position is one which has caused a good deal of anxiety. The work done is indifferent and the want of experience in a judicial capacity is often apparent." In 1915 again the Review concludes with the remark "that the service is suffering from stagnation". More criticisms of this type can easily be multiplied. But I feel I have already prolonged this portion of the report and I have appended copious extracts in a separate annexure.

It will be noticed that the remarks quoted are almost all prior to the year 1914. A glance at the long list of names in Appendix No. 26 will show how frequent the changes have been in the personnel of officers responsible for the carrying on of the administration of the district.

On a rough analysis of the figures in the Appendices 26-28, I gather the following:—Between 1901 and 1921 the Chief Commissioner was changed 10 times and 7 persons have held the charge—one of them, Sir George Roos-Keppel, held the office for nearly 9 years. In the Revenue Commissioner's place there had been 19 changes in the period between 9 persons, of whom 2 were Indian Army Officers. In the Judicial Commissioner's place there were 18 changes between 9 persons. In the Divisional and Sessions Judges place in Peshawar there were 42 changes, of which on 19 occasions military officers held the post—altogether between 18 persons. In the Derajat Division there were 22 changes, of whom 6 military officers on 6 occasions held the post among 16 persons. Among District Judges of Peshawar there were 56 persons and on 27 occasions military officers held the post. In Hazara between 1901 and 1915 there were 30 changes. Kohat District Judgeship was formed in 1916. Before that there was only the Deputy Commissioner who acted as District Judge. There have been 11 changes in Bannu; 21 changes in Dera Ismail Khan and since 1910, when the District Judgeship was constituted, there had been 10 changes. Among the Deputy Commissioners, where one would look for continuity of policy and outlook having regard to the very onerous duties which he has to discharge, let us compare the figures. In Dera Ismail Khan there have been 34 changes between 25 persons and on 15 occasions military officers held the post. In Bannu there have been 33 changes between 20 persons and on 19 occasions military officials held the post. In Hazara, there have been

20 changes, between 15 persons and on 12 occasions military officers held the post. In Kohat between 1909--15 there have been 18 changes and on 9 occasions military officers held the post. Between 1901--1909 there have been 11 changes—altogether therefore 29 changes.

In Peshawar from 1908 (we have not got the figures previous to that) there have been 18 changes between 13 persons and on 10 occasions Army officers held the post. In the City Magistrate's place, Peshawar, from 1908 alone there have been 38 changes.

I do not go down to the lower grades of Assistant Commissioners and the rest. There is something rotten somewhere to have produced these results and yet so much is made before us by the official witnesses of the importance of the office of the Deputy Commissioner and of the difficulties of administering the border and of the complex problems on which may hang peace or war.

16. Is it any wonder that the people have suffered in the way they have done

all these days? Now I ask who is there responsible for all these things? Was there anyone to control the Chief Commissioner in his administration of the district? If this was done by the Foreign and Political Department of the Government of India, was there a strong Government responsible for the internal administration of these districts and to protest against this sort of dealing with the districts? The Chief Commissioner was their mere subordinate. Either he did not protest or was unwilling to protest. In a difficult administration like this where you combine conflicting interests and duties in the head of the district it is all the more necessary that there should be some continuity. If within the short period of 20 years there could have been this enormous number of changes in the posts of responsible officers, one cannot resist the conclusion that it is the system which is at fault—the system of harnessing political with administrative tracts and of the Government of India assuming direct responsibility for the internal administration of settled districts. The Chief Commissioner is superior in rank to the Foreign and Political Secretary. The Chief Commissioner is the final authority on internal administration and is responsible to nobody else and there is not the faintest trace of any responsible review of his internal administration and the Government of India are not equipped with the machinery for that purpose in their foreign or other department.

Defects of the system.
Conflict of interest.
Chief Commissioner, Agent to Governor-General.
Duality of functions.

On a perusal of the yearly reports I found a casual reference in one of the early years, i.e., 1902, to a review by the Government of India of the Report on the administration of Civil Justice here, after the formation of this province. I asked for further information on that whether there were other similar reviews in that or other departments in later years and I was informed there were none. Presumably, they have gone out of fashion, for now the Chief Commissioner is treated as the local Government, whereas the original intention was that he should have only some of the powers of a local Government (*vide* Lord Curzon's Minute, paragraph 53). Here is a system which makes the final authority in internal administration combine in itself the function of Agent to the Governor-General so far as political matters go. The latter comes under the notice of the Government of India: the former does not. There is a conflict of interests between the two, admittedly. Is it any wonder that the Chief Commissioner should feel so strongly the obligation of satisfying the Government of India in the Foreign Department in respect of his political duties and that with every good intention in the world, he would be unable to discharge his administrative duties efficiently—especially as his political charge was daily growing graver as singled out to us by Mr. Pears? If the Chief Commissioner was responsible to another strong government for his internal administration which can press the interests of the districts with some force and authority, which would arrest careful consideration at the hands of the Government of India even in cases of mixed questions of the internal and external policies, things would have taken a different turn altogether.

I wish to place myself, in judging of this question as if it arose for consideration in the year 1915 for it was only after that year the situation became graver in consequence of other agencies—the Great War and other factors already alluded-

Question considered as if it arose in 1915.

ed to on which great reliance is placed in condonation of the defects of the internal administration of these districts—and I propose to consider whether I can brush them aside as merely due to temporary causes as my colleagues would desire me to do and as remediable by bare changes and reforms in the existing machinery for internal government in these districts.

17. There were three vital changes introduced at the time of the separation
 Changes on separation. of this province—

- (1) To the first of these, I have already alluded—*viz.*, placing the same officer in charge of both sides and in supreme charge of one side in these districts.
- (2) The second is the weakening of the position of the villagers by disarming them and neglecting their village defences.
- (3) Lastly, there was the withdrawal of the protection afforded by the Punjab Frontier Force (which included such a mixture of elements as the Punjabis, the Gurkhas, the Rajputs and the Pathans), and relying solely on local militia for border protection.

The last of these changes has been found a failure after a trial of considerable length—for nearly 20 years.

Field for recruitment to provincial services too limited and excessive preponderance of the local element and therefore of one community.

18. For the formation of this small province the field for choice in recruitment of provincial services naturally became very limited.

Several witnesses have given evidence before us that the Pathans are closely connected with the tribes across the border by kinship, and community of language, sentiment and customs, and that they are so closely bound up in various ways that it is one of the ruling objections to the separation of these districts from the border.

One has to face the facts, however unpleasant the duty. During my tour with the Committee on the frontier, I have formed a very high opinion of the natural qualities of both head and heart of the Pathan and have felt great admiration for him. He is certainly a valuable asset for the Indian nation and I should like very much that there should be opportunities for Indians from other parts of this country from the Punjab downwards to come into closer contact with him and likewise I should desire the Pathan to meet these other Indians. This will undoubtedly result in mutual advantage and enrichment. Are there such opportunities now and has the Pathan such opportunities? Confined as he is in a small and narrow groove it is a wonder that he has still retained those fine intellectual qualities which are seen in him to-day. He held his own apparently during the days of the Punjab; for I find it stated during the Punjab Administration in paragraph 42 of the scheme report of 1902 “there are at present a large number of the natives of the frontier district holding appointments as Extra Assistant Commissioners, *Cis-Indus*”—; and again at paragraph 55 I find it stated “these frontier districts now contribute more than their share to the subordinate and provincial services of the Punjab. Too much emphasis cannot be laid on this fact for unfortunately an impression has been created in the minds of the people of the district who have given evidence before this Committee that they are likely to suffer by amalgamation with the Punjab in the matter of recruitment to the services.

It is true that by recruitment to the Punjab service, the natives of the districts may not be able to serve in their own districts and may have to suffer frequent transfers in a large province. But is it good in the public interest that in a small province like this where we have these strong feelings of affinity and where Khans are supposed to wield such great influence and where scions of those families are recruited to the services that they should be retained permanently in service within their own districts? In the scheme drawn up, the danger arising from such a condition of things was mentioned but has unfortunately not been provided against for I find it stated in paragraph 42 that “it is not advisable that in the personnel of the new provincial service there should be too great a preponderance of the local element.”

This is a well-recognized rule in all administrations and indeed it should be more salutary in a province like this where we have such extraordinary conditions, where the people of the district have got such close affinity with persons who in the words of Colonel James, "do not deserve any consideration at all at our hands as neighbours. Hit them whenever you can, how you can, and as hard as you can."

Here are a few extracts. Writing in 1909, Mr. Barton, District Magistrate, Kohat, says:—"The abduction of rich Hindus is an enterprise to which the outlaw gangs devote their energies. The Pathan villages have not rendered themselves conspicuous for assistance on such occasions and as a rule they confine themselves to a perfunctory Chighia with absolute avoidance of risks." The Sessions Judge also remarks: "They (the Hindus) get little assistance from the Muhammadan villagers—many of whom no doubt share in the ransom." The Sessions Judge of Peshawar in 1912 remarked: "there is reason to believe that in many cases the burglar and the thief had many of the Khans and the leading Malikis on their side." In 1920 the Judicial Commissioner remarks: "The hostile attitude of the tribes re-acted on the people as a result of the close ties of kinship which unite the Cis and Trans-border men." The Deputy Commissioner of Hazara in certain cases which he tried in the year 1921 has made the following observations: "It is quite clear that a gang of badmashes has formed in the Manshera Tahsil which has become a terror to the Hindus of the country-side and its object is to attack and loot rich Hindus and their shops. It is quite likely the prevailing scarcity due to drought and high prices has induced the members of this gang to commit the depredation. It is equally clear that some influential persons are covertly assisting this gang while all the local Muhammadans have combined to suppress all information which is likely to lead to the arrest and punishment of the members of this gang." He remarks in another judgment: "there is no doubt that the culprits were backed by influential local Khans" in connection with the same area.

I am quite willing to accept Colonel James' explanation that it might have been due to the particular circumstances of that year 1920-21 in that Tahsil and I am also willing to grant that such cases form the exception than the rule. For I have heard it acknowledged by the Hindu in many a place that the Khans of the various localities generally helped the Hindus who were dependent on them, in times of danger. At the same time we should not ignore the ties of kinship referred to so much in the evidence; and, to put it at the lowest, it will not be safe to depend altogether on an executive service—both the magistracy and the police, composed entirely of the people of the district. Unless we have a fair sprinkling of outside officers both in the police and in the magisterial lines, there is very little room for healthy emulation and example—especially where the local people have to be recruited without much regard to personal merit or education but on grounds of family position—and public interests are bound to suffer as in fact they do now.

Major Garstin makes the significant statement in answer to the question 'What do you think is the general attitude of the people living inside the border? Is there a spirit of hostility between them and the raiders and are they in a state of demoralised sympathy with them?' (Answer) I think the majority of them are apathetic.

Q.—Have you found the Khans really of any use in tracing culprits or in suppressing raids?

A.—Some of them are of use but some of them are apathetic.

Q.—What is the general impression?

A.—When I came here, generally they were not doing much. They are now being made to help us.

The evidence of Lala Gobind Das, M.A., LL.B., Prosecuting Inspector of Police, also shows that "there is a net-work of relatives spreading throughout the province and sometimes throughout the same district even; and that acts to the detriment of public interest." That being so, the recruitment as it is confined to such a small province must act as an additional source of danger. That the provincial service, both the executive and the police—now is almost

entirely manned from the local people, will be apparent from a comparison of the figures given in Appendix No. 25—whereas at the time of the separation there was a very fair representation of officers from different communities such as the Anglo-Indian, the Punjabi Muhammadan, the Hindu, the Sikh and the Christian.

Causes for increase in crime as disclosed in Official Reports.

19. The increase in crime as disclosed in the official reports is due to the following causes :—

- (1) Laxity of proper supervision by the police (*vide* Criminal Administration Report, 1907,—Judicial Commissioner, and District Magistrate, Kohat).
- (2) Inefficient investigation of offences,—large offences being untraced (Judicial Commissioner, 1909).
- (3) Frequent transfers of officers (Sessions Judge, Peshawar, 1908, and Review of Police Report, 1909).
- (4) Too frequent references to the *jirga* encouraging a habit of careless investigation (Judicial Commissioner, 1903, and District Magistrate, Hazara, 1913, Judicial Commissioner on Criminal Administration Report, 1910).
- (5) Want of proper judicial training for the Magistracy (Judicial Commissioner, 1912 and 1914).
- (6) Weakness and invertebracy of the magistracy and their want of moral fibre (Judicial Commissioner, 1907, 1911-12 and 1914).
- (7) The policy of repatriation of outlaws on account of political considerations.

Reference may be made to the official extracts annexed to this (Enclosures A, B and C) and also to the evidence of Rai Bahadur Bhai Lehna Singh, M.B.E., Additional Divisional and Sessions Judge, Peshawar.

Q.—Do you think the people of these five districts deserve good government—of which the essentials are (1) security of life and property ; (2) good administration of civil and criminal justice ; (3) moral and material progress including free press, free platform and an independent bar.

A.—Certainly they do.

Q.—Do you think that under the present system of Government they get it ?

A.—It is their misfortune that they happen to be on the frontier.

Q.—As an experienced officer of this province I want your opinion. They have not security of life and property because of the increase in serious crime ?

A.—No.

Q.—I suppose that you find from your experience that this increase has been steady ? So far as I am able to see from the official reports, they attribute this to four causes :—

- (1) Inefficiency of the police.
- (2) Want of good administration in criminal law.
- (3) Policy of repatriating outlaws.
- (4) And restlessness on account of the Afghan war. Do you agree that these things exist ?

A.—Yes.

Q.—As regards the inefficiency of the police, you have already stated—‘ not only are they inefficient but corrupt.’ As regards the administration of criminal law, the weakness and invertebracy of the magistracy, the want of moral fibre, light punishments which have no deterrent effect, the low percentage of convictions, crime left unpunished too often, want of proper judicial training in the judiciary, and constant reference to *jirgas* are the causes mentioned as to why the administration of the criminal law is not effective. Do you agree with that ?

A.—Yes, I do.

Q.—The frequent transfer of officers, and the numerous references to the *jirga* encourage a habit of carelessness in investigation. Do you agree with that?

A.—Yes, certainly.

Q.—As regards the magistracy, I think you have already told us the subordinate judiciary are inefficient.

A. As a whole.

Q.—That is due to the system of recruitment?

A.—Yes.

Q.—And that is due to giving appointments for political reasons?

A.—Yes.

Q.—Irrespective of personal qualifications?

A.—Yes,—personal qualifications do not play as great a part in this province in the selection of candidates as in other provinces. The causes mentioned by me hold good in every service.

Q.—Have you got a bar here, independent to have political agitation of a constitutional kind?

A.—I think you cannot call the bar here independent in that sense.

Q.—The pleaders have given expression that certain things have in this administration acted as a deterrent to healthy public life.

Do you agree?

A.—Yes. (Pages 131—133 of Volume II of Evidence.)

To this may be added the testimony of Wazirzada Muhammad Akram Khan, retired District Judge. (*Vide* page 35 of Volume I of Evidence.)

In reply to a question, by my colleague, Mr. Abdul Rahim Khan, at the close of his evidence which ran as follows:—

Q.—In regard to British officers of the Punjab (Extra Assistant Commissioners) have you heard any complaints about corruption—I mean even those who had entered by competitive tests? he gave the pathetic answer “Corruption does not depend upon the degree of education but upon the nature of the individual. Everywhere you can see well educated men who are corrupt—but here the worst of it is they are not only dishonest, but uneducated and unfit.” It may be mentioned that this gentleman gave evidence strongly against the amalgamation with the Punjab. To a similar suggestion put to another witness, the Honourable Major Muhammad Akbar Khan, C.I.E., the Chief of Hoti, that in the Punjab also there are a lot of people of the same type, namely people recruited to judicial work without the necessary qualifications, the answer was “there is no exemption in the Punjab. Men of much higher position were not exempted. They had to pass their examinations, but since 1908 this exemption has taken place here from the time of Sir George Roos-Keppel for reasons best known to himself and his advisers?” This gentleman also gave evidence strongly against amalgamation with the Punjab.

20. Turning now to the civilising influence of the administration on the British rule and its influence on the Pathans, one cannot but grieve to find Pathan. No changes in his character by that after so many years of British settled rule and not mere political control as in reason of isolation. the trans-border area, the Pathan in the district should continue in the state we now find him. The reference here is not to the handful of the educated gentlemen but to the large majority of the Pathans as a class.

The Chief Commissioner remarks in his report on the Police Administration of the North-West Frontier Province of 1920 “We must confess that a generation of the Indian Penal Code has failed to turn the Pathan into a model citizen,” and in answer to my question, “As regards these blood-feuds of which we have had a

graphic description from a Shinwari gentleman, are they still maintained by the people in this province?" Sir John Malley answered, "Yes, they carry on blood-feuds among themselves. They do not of course live in the same way as the trans-borderers do, occupying fortresses against one another. But it breaks out at any moment. They have not lost that characteristic at all." Here is an interesting and instructive bit of information which Khan Bahadur Malik Atta Muhammad Khan, Nawab of Kalabagh, gave to the Committee. He gave evidence from the Punjab point of view. He is a resident of Isakhel Tahsil which once formed part of Bannu before the separation. He says "If those people were amalgamated with the Punjab—meaning the people of these districts—they are so prone to crimes that they will commit crimes and the Punjab people will learn from them the same pernicious ways. Again, their notions are entirely different from ours. They kill a man as if he were a fly. Their ideas are hard and the ideas of the Punjabies are soft, and by communication with them, the Punjabi might imbibe the same ideas." On that statement portions of my cross-examination which are extracted below indicate what might have happened at least to some extent if the people of these districts had continued part of the Punjab and separated from their savage kinsmen across and made to associate more and more in their daily affairs with cis-Indus people.

Q.—How old are you?

A.—58 years.

Q.—Of course you remember the days when these districts formed part of the Punjab Province?

A.—Yes, I remember those days. My district was Bannu. Now I belong to Isa Khel Tahsil.

Q.—Have you got any trade relations with Dera Ismail Khan, I don't mean you personally but your people?

A.—We had some relations with Dera Ismail when our Commissioner was there.

Q.—Were there any trade connections with Dera Ismail Khan?

A.—I am not a trader. I am not aware whether there were any trade relations then or now.

Q.—Have you any relations by blood or marriage in Dera Ismail Khan? I don't mean you but your people.

A.—There are no relations between people of Mianwali district and the people of Dera Ismail Khan.

Q.—What people have you in mind when you say they are all criminal and kill people like flies? Do you refer to the people of the trans-frontier district or to the people of the five districts?

A.—I refer to the people of Peshawar, Kohat, Bannu and Dera Ismail Khan as well as the people of the trans-border area who are the same; but I know nothing about the Hazara people.

Q.—Have you personal knowledge of these people?

A.—I have been to the district of Bannu many a time but I have not been to the other districts. I used to call in at Bannu on *jirgas*.

Q.—For several years when Dera Ismail Khan formed part of the same division, your people and the people of Dera Ismail Khan were amalgamated, were not they?

A.—Yes, they remained amalgamated for nearly 17 years before separation.

Q.—Did your people become bad people before amalgamation with the Dera Ismail Khan people?

A.—Then their ideas were not so good as they are after the amalgamation with the Punjab. The ideas of the men of my district have since improved.

Q.—Is it because they are under the Punjab Government ?

A.—Not because they are under the Punjab Government but because they have been separated from those people. Now they are in good company.

Q.—You mean by moving with people of East Punjab your people have improved ?

A.—Yes.

Q.—Are there Pathans in the Isa Khel Sub-Division ?

A.—In Isa Khel town there are Pathans, Hindus and others.

Q.—Those Pathans have settled in Isa Khel a long time ?

A.—Yes, they have been settled there for a long time.

Q.—Are they different from the Pathans of Dera Ismail Khan ?

A.—There is no brotherhood between Pathans of Dera Ismail Khan and Isa Khel, though both are called Pathans.

Q.—I suppose by mixing with your people, the Pathans of Isa Khel have improved considerably ?

A.—Yes, on account of mixing with the Punjabis they have improved.

Q.—Therefore does that not afford a strong ground in your opinion, if there is a chance of associating other Pathans with your people, a reason for amalgamation. Would you not advocate it ?

A.—These Pathans came and settled in the time of Mahmud Ghuznavi. Why should we and our children bear troubles on account of these Pathans who want to come to us ? (Pages 779-780 of Volume II of Evidence.)

Thus we have again a description of the Pathan after being domiciled in the Punjab, in the Punjab Administration Report of 1911-12, page 66 : “ The Pathan tribal system subsists with any force only west of the Indus and to the east of it the Pathan is well-nigh as tractable as the Baluch or the Rajput, the Pathans are found in all the districts and minor States of the Punjab and where not actually temporary immigrants, employed in horse-dealing, labour or trade or claim to be descendants of families that have reached their present abodes in the train of conquering invaders. Large numbers are found in Delhi and Lahore districts but in all these cases the Pathans are hardly to be distinguished in character or customs from the Muhammadan peasantry among whom they now dwell.”

If the trans-Indus Pathans in Isa-Khel could have improved in that way, why should not the rest have also improved. I attach the greatest importance to this aspect of the question. I would sever these people as far as possible from the savages across and the natural enemies of this Government and of this country and make them realize that they are part of all India and not part of Central Asia. My colleagues, on the other hand, would seem to hold that the larger Indianization of these people is a danger to this country, for they look forward to the day, by keeping these people together, “ when the savage tribes across will become part and parcel of the cis-border tribe and form a strong, contented community.” Does past history teach us this ? Are these people to be kept as tame elephants to catch the wild elephants ? Khan Bahadur Nawab Habibullah Khan, it is no wonder, has warned us of the danger if these districts be not at once amalgamated with the Punjab. For he says, “ If it is not done there will be demoralization and a state of absolute barbarity will set in and there is a well known proverb in our language ‘ Gore nal bagha bajhi, rang na wateve-tan khaslat sikhe ’.—“ If a white bullock is tied on with a red one, if it does not change its colour, it will learn its habits ”—and so the proverb goes.

That there is every danger of that we can easily see from the following statement of Sir John Maffey made in another connection :—

“ This province cushioned between the Indian Continent and the troublous regions of Central Asia, registers the varying shocks of the outer world. The Pathan population have ties of custom and kinship

with the tribal Afghan Borderland which render them prone at all times to lawlessness, quick to violence, apt to seek vengeance for themselves rather than submit to an alien form of justice. Their proximity to the border renders it necessary to permit a wide distribution of arms for purposes of defence while at the same time it affords an easy refuge for the criminal who desires to escape from our penal laws. The old instinct to murder one's enemy has quickened and the means of doing it have increased. The result is plainly reflected in the criminal statistics."

21. This question raised by my colleagues it far too serious a problem from an all-India point of view for me to omit to give free expression to my conviction in the matter. As I read the situation, what is this that my colleagues are aiming at?

**The attempt at formation of a Pathan Province - Dangers and difficulties.
Afghanization not Indianization attempted.**

They want the foundation of a Pathan Province to be laid and they expect it will be a barrier from all possible enemies from the west. They admit there is a danger from the west in any case and whence exactly is that danger? Is it not from Afghanistan? and who are these tribes whom they propose to set up as a barrier against Afghanistan? Are these not the kith and kin of these Afghans—why, indeed the Mahsuds are partly in Afghanistan and partly in the tribal area;—similarly several other tribes inhabiting the border. If the people who had been under British rule for nearly three quarters of a century could be described in the way in which one of their own educated men describes them, is it unreasonable to entertain a fear that far from being a barrier from possible enemies we will be opening a wide door to the foe of India and of the British under the arrangement contemplated and proposed by my colleagues; we in the rest of India cannot look with equanimity upon the formation of a strong Pathan Province when he, the Pathan, considers he can never be Indianized.

This is what a gentleman learned in the law, Maulvi Nur Baksh, B.A., LL.B., Pleader, Dera Ismail Khan, stated to the Committee. He has given herein frank expression to views which undoubtedly must prevail in the minds of the vast bulk of the community. Describing the cis-border Pathans he observes: "Their family quarrels and blood-feuds are the things that mostly attract their attention and engross their time and all of them are equally fanatical, equally excitable and turbulent. Though divided into different tribes and clans, they belong to the same original stock. As regards their distinguishing characteristics, there is little distinction between Pathans of the plains and their brethren of the hills except that the former have under the civilising influences of the British administration, given up the habits of dacoity, and free looting, more owing to want of access to arms than to anything else. The Pathans who mostly inhabit the province are not an Indian race. Like their well-known Powindahs, there are still many mountaineer tribes who flood the province during the six cold months. But for the British, many of these would have preferred to take forcible possession of the fertile plain country and make it their permanent home. In spite of the comforts of the plains, the Pathan has a deep natural love working in the inner depths of the heart towards the romantic hills which remind him of the golden past when he was full master of his own will.

As a matter of fact, the Pathan considers himself more to belong to the hills than to India." It is a question "whether he can be Indianized at all" and my colleagues deem it right that he should not be Indianized. Does the Government exist for India or for anything else? If British subjects of the Indian Empire cannot look to the East but to the West for their inspiring influences why should India look with equanimity upon such a state of things and why should the British look with tolerance upon such an aspiration? It is an idle dream to expect the mountain-tribes to give up their affection for their own kith and kin in Afghanistan.

When I cross-examined him on this point (*vide* page 646 of Vol. I of Evidence) putting the question "Talking of the Pathans inside of the border you say 'the Pathan considers himself more to belong to the hills than to India. He has more sympathy with his kith and kin in the trans-border than with the rest of India.' Is that true?"

He answered 'quite true', because the Pathan comes *from Afghanistan* (mark the words *from Afghanistan*) and when I drove him to a corner in trying to make out that he merely wanted to emphasise his point he still added 'these Pathans who live on the outskirts of the hill consider themselves more to belong to Afghanistan than to the rest of India.' When Mr. Bolton put a question to another in the group who was a Pathan, 'I am afraid you have painted your community darker than they are,' the answer was, 'in writing one has to emphasise.' I emphasise the word 'darker' in the question and I emphasise the word 'emphasise,' in the answer. It has to be dark before it is darker and you cannot emphasise a non-existent fact. But there is the danger spot. Another witness, Muhammad Samijan, said, "So far as I can understand, all over the world there are four or five elements which go to form a nation. One is language, the other is geographical position, another is religion and the other is tradition and culture. I think if we are sound in all these points, I as an individual belonging to this part of the frontier have got all these points in common with the people living across the border."

Q.—Even culture?

A.—Yes, even culture, for by culture I mean the ways of life—of course it is just possible that educationally so far as books are concerned, I may be superior to them but so far as ways of life are concerned I am equal to them. (Pages 354-355 of Vol. I of Evidence.) On hearing this, I was reminded of the preaching of "Afghan adventurers" to the tribes. They preached that on political, racial and religious grounds, "the control of the Afridis should vest in the Amir of Afghanistan", *vide* Border Administration Report for 1920-21.

I quite appreciate such sentiments. But what about the Indian nation? Are these gentlemen of the settled districts to form part of the Indian nation or to form part of the Afghan nation? Which ideals are they to be taught which is to be the aim whatever the ultimate policy. Is it to be Indianization or Afghanization. I, as an Indian, cannot look unperturbed on the Afghanization of the border. Is it for this purpose the Indian revenues are to be used?

I sympathise with their sentiments and would wish them god-speed in their endeavour, provided it was not a possible source of danger to all India and to the British Empire in India. It is not so much a Muhammadan province as a combined Pathan province which is sought to be created. While I welcome him as an Indian I cannot bring myself to welcome the Pathan of the Province as an Afghan. It is the formation of this Frontier province and the segregation caused thereby that have engendered such sentiments.

It is this danger which Sir John Maynard had in mind, when he gave those cautious answers to Syed Raza Ali's questions about giving the people of the Frontier districts the same rights and privileges as the rest of the province. When he answered 'When people are in the same province, you have to treat them alike although you may have your doubts as to their perfect political fitness.' Syed Raza Ali, followed it up with the question 'So far as that goes, the evidence before us has been that the people of that province are quite as intelligent and as capable, if not more, as the people of any other province.' The President intervened with the remark 'I take it, Sir John Maynard was not thinking solely of capability and intelligence—and to this Sir John answered 'I was not thinking of intelligence: I was thinking of other things.' At this Mr. Raza Ali said 'That is why I mentioned these two things when I intervened with the remark 'What was it you were thinking of.' Sir John answered 'What I have really in mind is the extent to which they really feel themselves to be British subjects. Their eyes may be turned in two directions.' The President tried to use the corrective 'You were thinking of the tribal tract' and to this, having given in answer an emphatic 'No' Sir John followed up by saying 'here again I am at a disadvantage in not having recent facts' before me. But I think it is obvious that some of the tribes remain part of the year in British country and part out of it. What I meant was that there would be an element of which one may not be quite sure.'

These answers related to the supposition that the districts remained part of the Punjab. How much more should we have to pause and hesitate, before we give these people real political power, keeping them as an independent unit.

I find that Mr. Warburton also in his book 'Eighteen years in the Khyber' says this; "Giving a Malik power means giving him wealth (help) to injure us!" "The middleman whether he be one selected from our own subjects to deal with the trans-border area or whether he be one of their own chiefs, has caused the greatest amount of misery and trouble on the Frontier." "The Arbab or the middleman has been the cause of nearly every disagreement and of much of the bloodshed between the British and the 'savages' of the independent hills, for every man gratified by employment, a host of jealousies is raised against him and ourselves. These persons are not altogether incapable of provoking or promoting difficulties on the Frontier in the hope of increasing their own importance." Unless things have changed very much, these words of warning cannot be ignored. No less a person than Khan Bahadur Nawab Arbab Dost Mohammad Khan, O.B.E., Khalil of Takilwala, although he spoke strongly against separation and amalgamation, apparently believes—and he is an old man and a man of experience—that some political officers are not altogether innocent in this respect. In answer to the question, 'you began your answer this morning by remarking that raids are brought about by political officers. What do you mean by this statement?'—he said 'It is so understood'—meaning thereby that the people believe it to be so. There may be black-sheep everywhere. I would not attach, therefore, great importance to this ordinarily but for the fact that we are dealing with a frontier where, as we have been told, the unexpected more often happens.

22. I have till now considered the effects in detail of the formation of this province and of the fusion of both the administrative and the political control in the same hands and I find—

Effects of the fusion of both administrative and political control after the formation of the new province—A summary.

- (1) that there has been pronounced stagnation in several directions, if not retrogression in some, including the services;
- (2) that greater insecurity of life and property has resulted which, to put it mildly, is not entirely dissociated with this cause; and that it had become chronic by 1915;
- (3) that the executive services are inefficient and have acquired a tendency to adopt tardy methods and have for long failed to set the available political machinery in motion with the promptitude with which they could and should have done when serious cases of kidnapping and dacoity took place, from 1908 onwards. That promptitude pays and is not attended with serious risks to political relations is well illustrated by the case of a raid in a house in Sadar Bazaar of Peshawar city when an European lady was kidnapped in March 1920. Delicate negotiations were then in progress in Afghanistan. They were not affected by the fact that we organised a hot pursuit with nearly 1,500 hands with the result that the lady was brought back immediately;
- (4) that there has been the genesis of the separatist tendency in the minds of the Pathians with its menacing possibilities; and
- (5) that there has been no incentive to economy.

One other effect.

Tendency to autocracy in dealings with people of the selected districts.

23. Now I shall proceed to consider one other tendency of this administration, viz., the tendency to autocracy in dealing with the people.

In the old days of the Punjab immediately prior to the '80's before the districts became settled really, it used to be the fashion with the Punjab officials who were mostly recruited for the frontier service from military ranks, especially with young officers, to be "impatient of control and apt to gibe against any attempts to induce them to follow the law rather than their supposed common-sense." Here is an extract from a letter written by a young officer about 1877 to

an elderly officer in the service at Lahore. "I recollect after coming here writing you a very wild letter saying how I liked the rough and ready sort of way things were done—legality being little regarded." But, he continues, that he has begun to learn that "if a man knew his work, the laws were quite elastic enough to enable one to act legally and yet quickly." They had little love for the Chief Court of Lahore in these days and much less for pleaders. Even a senior officer after he was posted to judicial work in Lahore contrasting his position while at Peshawar where there were no lawyers, felt "as though he was fighting with beasts at Ephesus while surrounded by all the pleaders and barristers in his Court." The lawyers commenced to pour in codes, enactments, rules, etc., etc., etc., to torment the heart and mind of the frontier official. They resented "the thousand and one other Acts, regulations and rules which now cling to the district officers with the tentacles of an octopus." It was a wonder to them that the Chief Court insisted on its judicial work being done promptly in accordance with strict lines of procedure and rules laid down by it. 'How you can be a good frontier official and yet at the same time be a good lawyer' was their wonder. *Vide* (1): "Eighteen years in the Khyber" by Warburton, Chapter 19 (2); 'Thirty-five years in the Punjab' by Elsmie, pages 158, 192-193, 219.

Apparently later on the officials became reconciled to settled administration in the districts. Resort to their supposed commonsense rather than the law was less frequent. The ideal for an officer having to deal with wild tribes and of one having to deal with settled districts must be different. "You cannot rein wild horses with silken braids." Rigour is inseparable from control of such people. In dealing with British subjects in British districts, the ideal must be different. But where you have a narrow province with a service of its own, one day serving inside the border and the next day outside it without having opportunities of coming in contact with administrators with liberal outlook, the tendency is apt to develop of a common tradition in the service. They become more and more frontier officials of the old type. Evidence is not wanting of this tendency even in the most advanced of the officers on the frontier. I propose to refer here to a few instances.

Closing of Post and Telegraph offices in Peshawar.

Peshawar is the most important town in the frontier districts. The inhabitants of the city are mostly traders and merchants. If there is any blessing of British administration which people and especially merchants value most, it is the Post and Telegraphs. We all know it. Last year some ruffians in the town misbehaved in two ways (1) firstly, at the visit of His Royal Highness to the city by crying 'Mahatma Gandhi-ki-Jai' and other things and (2) secondly, in connection with two income-tax officers who were insulted and ill-treated—as well as another pensioner—and those who so insulted were afterwards tried and punished; and in consequence of that "a punishment was inflicted under the orders of the Deputy Commissioner, for which the Chief Commissioner takes the responsibility, on the whole town by closing all Post and Telegraph work in the city: by preventing carts laden with goods passing into the town: and by not permitting tongas with luggage to pass into the town—on the ground, in the words of Sir John Maffey, 'I was not going to let the city choose which Government servants they would have and which they would not'—and this from the highest authority in the province. I do not know if the Government of India were apprised of this intended action and then allowed it to be taken. Asked under what law this executive action was taken, the answer was 'under the law of common sense.' The Courts were not closed; other Government activities were not stopped; there had been no rioting; martial law had not been proclaimed. To punish a whole city of over a lakh of population in this manner, of depriving them of a vital service for the misconduct of individuals, will be the last thing a civil servant will think of in my province. It was really a case of "I was not going to let the city choose" and not a measure intended for protecting public servants—as if there was danger. (*Vide* Sir John's evidence taken at Abbottabad.) (pages 209-210 of Volume II of Evidence.) Another senior officer who had risen to the position

Notification of prohibition of re-entry to importing Ahmedabad Congress delegates.

of a Deputy Commissioner, permitted the issue of a notification in the newspapers under the signature of the Superintendent of Police "to the proposed delegates of the Ahmedabad Congress" that if they attended the Congress they would be debarred from coming back to

the district. This was from Hazara, one of the 'Settled' districts. The notice runs thus:—"The Deputy Commissioner warns you that if you attend the Congress at Ahmedabad you are liable to be expelled under Section 36 of the Frontier Crimes Regulation." The Deputy Commissioner in question admits that a grave mistake was made and that the District Superintendent of Police had exceeded his instructions in issuing such notice, only it should have run differently. My honourable Colleague Syed Raza Ali attended that Congress. The following questions put and answers elicited will be of interest also.

Q.—You know a Congress Committee was formed in 1921?

A.—Yes.

Q.—It was dissolved within a week of its formation?

A.—Yes.

Q.—You had the President, the Secretary and the rest arrested and kept under lock up for a day?

A.—Yes.

Q.—On their promising to dissolve the Association, you released them the next day?

A.—Yes.

Q.—Can you tell us why you did that?

A.—I think I explained to you what the conditions in Hazara were when I took over. I think I also explained the latitude given to political aspirations and I think I also explained the disastrous results.

Q.—That is the reason?

A.—I came to the conclusion that no aspirations except healthy political aspirations could in the interests of public peace and order be permitted. (Pages 455-456 of Vol. II of Evidence.)

So even before the Committee could show any signs of activity it came to a full stop.

A leading barrister Rao Sahib Parmanand at Abbottabad says this:—

Q.—Is there much public life in your district?

A.—Practically there is no public life and there cannot be any public life.

Q.—Why do you say that?

A.—For instance, I was absent from India for one year on a trip round the world in December 1920, returning on the 18th of November 1921. When I reached Havelian I heard that certain gentlemen who had belonged to Indian National Congress had been sent to jail and had been asked for security by the District Magistrate. That was my first work that I had to attend on the Deputy Commissioner. I said it would be better if they were not called upon to give security. Then some other gentlemen of Abbottabad joined hands with me and we attended on our Deputy Commissioner and said it was better that this thing should be dropped. It could only be dropped by the men promising that there would be no propaganda of the Indian National Congress and no Committees of the

No public life.

Indian National Congress. I agreed and said we are on the Frontier Province; we

cannot exist here without the help of our officers; we must obey them, otherwise our life will not be safe. I persuaded those people that they should agree to my proposal and they said they would cease to have any Congress Committee in the district and on that understanding being given, they were released.

Q.—Am I to understand that there is no organisation here for the expression of moderate opinion, national opinion?

A.—None whatever.

Q.—Supposing you have any grievance against high-handed acts, have you means of ventilating them?

A.—No, we have no means of ventilating them.

Q.—You said people are afraid of harsh treatment and therefore you have no free press and free expression of opinion ?

A.—They are afraid of harsh treatment.

Q.—What is the feeling of the bar here ? Do they feel they are independent units of life ?

A.—I do not think they feel at all independent. Their licences can be cancelled. That is the reason why members of the bar never join any such movements as they do in the Punjab. In fact very few people go to attend the Congress. Those who want to go, bring it to the notice of the officials so that people may not report against them. (Pages 7-9 of Vol. II of Evidence.)

Even the Judicial Commissioner is tempted to take executive action against the pleaders by threatening to transfer them from one place to another on *ex-parte* reports made by the Deputy Commissioner. The correspondence with Ghulam Rabbani, a pleader at Mansehra, appended to this, will illustrate this position. It is a novel position for a pleader to be told, after establishing his reputation in one place, to be threatened to be transferred to another place at the sweet will of a Judicial Commissioner who acts on *ex-parte* reports by an executive officer and by an executive order. When asked for a copy of the order transferring his place of residence the pleader was informed that 'copies of such orders being of an executive nature cannot be supplied' and the Registrar continues 'I am to add that the transfer was made on grounds of public convenience—a right, the exercise of which the Judicial Commissioner reserves to himself in the case of all legal practitioners.' Well may the barristers and pleaders say after this there is no independent bar there. If pleaders can be ordered about from place to place at the pleasure of the Judicial Commissioner in his executive capacity, it cannot be a 'Settled' district. Other similar instances may be quoted to show that the people of the districts are under the sway of an autocratic administration which must starve if not kill the growth of public spirit in the province. This sort of feeling that you cannot give public expression to grievances is prevalent not only in towns and with educated people, but also among the rural population. A batch of witnesses appeared at Abbottabad representing the Lambardars and Zemindars of Mansehra Tahsil and they spoke strongly against amalgamation. When their spokesman Mr. Wali Mohammad had enumerated a number of grievances he had against the way in which the Frontier Crimes Regulation was being worked, he was asked :—

Q.—How long have you been feeling all these difficulties ? and the answer was this : 'Up to 1911-12, the Frontier Crimes Regulation was used properly. In cases in which the parties asked for it or the officers thought it important and necessary, a *jirga* was appointed.'

Q.—What have you done about these things which you have felt as grave grievances ?

A.—What could I do ?

Q.—Could you not form an association or village committee for getting rid of these things ?

A.—The people are not sufficiently educated in the province to bring them to the notice of the officers in such a way.

Q.—You are an educated man ?

A.—I could. But party feeling runs very high in the province. If we collect 50 or 60 persons at our houses at the time of marriage or death ceremonies, that is represented to the officials in a bad way and it is said that we met to discuss seditious or rebellious movements and after some more answers indicating that it was not the fault of the officers but of the information carried to them, he was asked if there was any Congress Committee in his village to which he answered 'No' : it is not possible to hold gathering at the time of ceremonies. If the Congress meeting was held people would be sent to jail. When he was asked why he did not and people who were thinking and had been thinking in the past did not take steps to get reforms, he answered they had no medium for expressing themselves and had not now only that this Committee had given them some opportunity.

Q.—You had your Deputy Commissioner and Chief Commissioner, why did you not make representations to these officials in a body ?

A.—I have already said that even 20 or 25 men could not collect together for such a purpose. What is the use of asking me again ? (Pages 348-349 of Volume II of Evidence.)

24. Such being the defects in the internal administration of the districts, let us turn to the other aspect of the question, *viz.*, from the point of view of the trans-border area whether the combination has resulted in greater good. It would have been seen from the extracts quoted already from the official reports that the results have not been satisfactory from this point of view even. The Chief Commissioner's responsibilities in that direction have grown very grave and complicated. The time has come, as every official witness has stated before this Committee, for taking effective action. When Colonel James was questioned as follows :—‘ there are already troublesome borders which are trying to become more troublesome. What is your view of the proper measures to be adopted to put them down ?—he answered ‘ you cannot put the danger down. I do not believe it is possible except by taking over the whole country. I do not see there is much scope of improvement short of occupation until civilization, as we understand it, spreads into their country.’ In examining Mr. Ewart I am afraid I showed a tendency to belittle the lurking dangers in the tribal area which Mr. Ewart wished to impress upon the Committee. The President with his insight very naturally in his concluding examination brought out the gravity of the situation which will also have a material bearing on a united and contented Pathan community theory dealt with already.

25. It is impossible hereafter to avoid pursuing a firm and definite policy in regard to the trans-border area. The matter has come to a head after the last Afghan War and after the treaty that has been signed. The management of the situation there will require the earnest and anxious and undivided attention of the person who acts as the Agent of the Governor General in that area. We cannot shut our eyes to the fact that the system which has hitherto prevailed of external control is only a *pis aller* and that sooner it will be necessary to face the situation and establish a closer control over the tribes. “ The necessity of the permanent occupation of the Central Mahsud country near Makin based on a new, mechanical, lateral transport road connecting the Tochi with the South Waziristan has been felt and accepted.” The time has come when a policy should be announced with as little delay as possible so that our enemies may know that further resistance is useless and our friends may know that they will have our support in future instead of being left in the lurch as had occurred before. The policy has been announced by Lord Chelmsford in a speech which he made in the Imperial Legislative Council on the 20th August 1920 in clear words. After reviewing the facts he stated “ We hoped that if we let them alone they would leave us alone ”. This hope, I regret to say, has proved fallacious ; and the time has come when we can no longer shut our eyes to the fact : He continues “ On a review of the facts we have now made up our minds that this continual and gratuitous provocation can no longer be suffered, and we have decided with the approval of His Majesty's Government that our forces shall remain in occupation of Central Waziristan, that mechanical transport roads should be constructed throughout the country, especially roads linking the Gumol with the Tochi line and that our present line of posts shall be extended as may seem necessary. It is not possible to set any limit to the period of our occupation.” I feel it is too late to retract. A steadfast policy on the Frontier is now more necessary than ever. How is one man to discharge both these functions without detriment to both ? So viewed from every point, the conviction has forced itself upon me that it is expedient, nay, that it is necessary to separate the administration of the five administered tracts. I feel, nobody feels it more than myself, in giving this answer, that it is a very bold one. It may be said and perhaps with considerable force that the opinion of all experts, past and present, is against this view. But after examining their opinions most carefully and the grounds on which

they are based, I am satisfied that those opinions are more the result of the conservative tendency of the official mind in this country, to take 'what is best.'

Official conservatism.

When Lord Lytton proposed the scheme of the formation of the North-West Frontier Province with the trans-Indus districts more or less on the lines finally adopted in 1901 in Lord Curzon's time, "there was but one opinion expressed in the whole of the service that it was a great political blunder" (*vide* Sir Robert Montgomery's letter dated July 13th, 1876, printed at page 219 in Elsmie's "35 years in the Punjab" and yet the then Secretary of State accepted the proposals with certain modifications, as a necessary measure of defence and security. This scheme, however, did not take effect on account of the war in 1878. These modifications are rather important in view of the proposals which I am putting forward. The Secretary of State's scheme was the creation of two Commissionerships for the trans-Indus districts of the Punjab and Sindh (for Sindh was not then part of Bombay), i.e., one for the Pathan and the other for the Baluchī tribes. The incumbents of the posts were to be appointed by the Viceroy *but in respect of all internal affairs were to take their orders from the Punjab Government*. Although several eminent people thought that this scheme emanating from the Secretary of State was beset with difficulties and that it would probably be more difficult to devise a scheme more full of the seeds of future misunderstanding and confusion, Lord Lytton and the Secretary of State were prepared to accept the modified scheme and the arrangements were very nearly completed to put it in force, when in the winter of 1878 war broke out with Afghanistan.

26. The impossibility of severing the external relations of the tribes from

The theory of impossibility of severance of their internal administration and placing tribal control and districts administration the former under one Government while the latter remains under another, has been put forward as the greatest argument against any such scheme and is the one which overwhelmed Lord Curzon in 1900 (*vide* paragraph 25 of Lord Curzon's Minute, page 129 of the Blue Book). Let us examine this more closely. What is it that the people understand or understood when they speak of this impossibility? Mr. Merk is generally quoted as the greatest authority on the subject. This is what he says in paragraph 3 at pages 74-75 of the Blue Book. "That being so, will he readily understand what an infinity of questions of dispute and disagreement and of business arises from the daily intercourse of these people. This business must be settled promptly and with justice or the peace of the border is endangered. It is business which is quite distinct from the imperial questions in which British and independent interests as such are arrayed against each other; and upon the successful administration of the daily business of the frontier it chiefly depends while under ordinary circumstances the border is heard of or not. But the discharge of local or imperial business in the border is not the sole duty that falls on frontier officers by whom I mean, Deputy Commissioners and Commissioners." He says "the five Frontier districts leaving out of consideration the border matters for the moment call for administrative qualification and capacity above the average" and he says further at page 76, "when we have not crossed the boundary of British India and consequently have not been obliged to create political agencies that are independent of Deputy Commissioners, the maintenance of friendly relations with the border tribes, the exercise of such control over them is feasible and expedient and the settlement of the business I have sketched above arising during the daily intercourse and transactions of the people within and without the border line is entrusted to the Commandants (now Assistant Commissioners) of the border military police, under the general control and supervision of Deputy Commissioner. I have explained how and why in the districts external control cannot be dissociated from internal management. The people are much too closely connected for that. There must be one administrative head for both branches of the management. *In cases where we have crossed the boundary and have maintained political and other administration of large trans-frontier tracts, the circumstances are entirely different and there we have officers, viz., political agents, co-ordinate with and not subordinate to Deputy Commissioner.* But within a district there can be only 'one king in Brentford' viz., the Deputy Commissioner." Thus it will be seen the political control of the trans-border area consists of two parts—the local and the imperial control from inside the boundary, of adjacent area and control of the area itself. It is

in the former the daily transactions are so interwoven that they should be in the hands of the same officer, *viz.*, the Deputy Commissioner and "not that large portion of the trans-border control where you have co-ordinate officers to deal with the situation." The Political Agent's charge is different from the Deputy Commissioner's charge. It is the Deputy Commissioner's internal and external charge that cannot be separated. The proposal I am going to make does not involve any such separation. The proposal made in 1898 involves such separation and it was open to the objection taken by Lord Curzon. My proposal will be in the nature of perpetuation of an existing separation and not the creation of a new one. The Deputy Commissioner and the Assistant Commissioner under him will continue in charge of the district and also of the business arising out of the transaction—and daily intercourse referred to by Mr. Merk which are local and not imperial. The proposal Mr. Merk was commenting upon was the alternative suggested by the Secretary of State of "making the Commissioner of Peshawar and through him *his several subordinates* who were employed in conducting the external relations with the tribes, directly subordinate in such matters to the Government of India." It was the practicality of that arrangement that he was commenting upon. That proposal included a scheme by which the Deputy Commissioner and his Assistant Commissioner were to be subordinate to the Punjab Government in respect of internal matters and to the Government of India in respect of external matters. There may be difficulties in accepting such a proposal, as was pointed out, on the argument of inseparability. But that does not apply as he himself points out to large trans-frontier tracts where the circumstances are entirely different. Dealing with the same objection under another name of divorce—*i.e.*, the control of officers on the British side of the border must be divorced from the control of affairs on the further side. Mr. Anderson points out "while the spheres of control must cross at points it is practicable in most matters to draw a fixed line between trans-border and cis-border affairs and cases; and as one officer will have control of both, *viz.*, the Commissioner of Peshawar, he could without serious difficulty exercise his control over trans-border tribes under the direct orders of the Government of India, while at the same time administering cis-border tribes and districts under the direct control of the Punjab Government." This fusion of control he also recognises as true only as regards the population in parts of the border within and without. As I read his paragraph at page 80 he mentions that so far as the Agencies are concerned he sees no difficulties in separating them and placing them under the Government of India direct and as regards those parts where the relations between the cis-border and trans-border are intimate, even there he thinks it is a practicable arrangement to separate them and place them under the Government of India while the district administration should be carried on under the direct orders of the Punjab Government. He considers, as there will be a common Commissioner by whom control will be exercised and through whom the two Governments, *viz.*, the Punjab Government and the Government of India will issue their direct orders, in respect of matters respectively within their spheres, that there will be no serious difficulties and that therefore he sees more advantages than disadvantages in the Secretary of State's alternative proposal which he was then considering. Sir Mackworth Young dealing with the same objection, which he states thus: "the duty of maintaining friendly relations with, and control over, trans-frontier tribes is inseparable from that of managing the tracts within the British border—merely adopts Mr. Merk's statement of this inter-connection, and proceeds to state "there are tracts in regard to which separate political charges have been framed to which the remarks apply only to a minor degree." Of course Mr. Merk and he were opposing the proposal, that was put forward, of separating the whole and not only of the Political Agencies. Sir Richard Udney, on the other hand, agreed with Mr. Anderson and indeed he was even more strongly in favour of the proposal to make the Commissioner of Peshawar and through him several of his subordinates who are employed in conducting external relations with the tribes, directly subordinate in such matters to the Government of India. He points out the distinction between purely external relations and those not purely so—and enumerates them. Mr. F. D. Cunningham in dealing with the proposal remarks thus in paragraph 3 at page 98. What he "gathered from the Secretary of State's despatch was that it was suggested that the District Officer should be divorced from the management of political business in his own border." If it meant that, he ventured to think the scheme needed careful reconsideration. It is in commenting on this

that he makes the remark that "the fundamental principles of border-administration should be to retain in one hand executive control within and the management of relations with clans *on the fringe of hills* beyond the border." It is with reference to that fringe of hills beyond that he proceeds to say "the geographical line which marks the boundaries is no barrier" and so on, and he concludes with the words "that these remarks refer to the clans who march with British territory." The further you go from our border, the less does this argument apply. The fact that there are political agents in charge of Wano, Tochi, etc., and that they can manage those tracts successfully without having jurisdiction within our districts does not prove the contrary as these charges include clans far removed from the border line"—and he summed up his opinion that "the proposal to remove the Commissioner and his subordinates in political matters from the control of the Punjab Government and to place them directly under the Government of India is practicable and not unworkable. But that it *had* grave disadvantages, and he had no hesitation in saying that it would be a grievous mistake to divorce the Deputy Commissioner from the management of the border clans who march with these districts; and he offered a solution of continuing these districts with the Punjab Government and to give it real authority and power to issue final orders in respect of affairs with clans on the immediate border fringe, and in all but matters likely to lead to serious results or to hostilities on a large scale and he expected that that plan would work. Mr. Warburton also advocates the importance of Deputy Commissioner and Assistant Commissioners doing purely and solely the civil work of their districts and of having political and police officers to undertake the trans-border police duties (*vide* page 340).

27. On an analysis of these somewhat conflicting opinions on the proposal, the following conclusions emerge:—

- (1) There is a vital distinction between the control of that portion of trans-border area—call it what you may, the fringe of hills beyond or the clans which march with British territories—and control of those tracts in regard to which separate political charges had been already formed. It is the former control which is inseparable according to all and not the latter.

- (2) Of the 5 officers consulted, two of them were in favour of the whole proposal. Mr. Anderson and Sir Udney and one of them considered the proposal "practicable and not unworkable" and suggested his own solution and the other two were against the proposal as a whole.

- (3) They had not to consider the modified proposal which Mr. Cunningham gives at page 100, bottom, which is the one I propose to advise the

Proposed Scheme.

Government to adopt to solve the numerous difficulties. In 1877 and again in 1898 the Secretary of State and other experienced officers saw the necessity and wisdom of separating the internal administration of the districts from the political control of the tracts and placing them under the direct orders of the different Governments, respectively, the Punjab Government and the Government of India. It is true both the schemes contemplated one officer, *viz.*, the Commissioner of Peshawar as the hand to control both. Difficulty was felt only with reference to the area where internal administration involved external control. Thus it will be seen it is no novel idea to separate the two administrations and place them under two different Governments working through a common subordinate channel, *viz.*, the Commissioner. The argument of inseparability is met by adopting the proposal of Mr. Cunningham. That the Political Agencies and the district controlled tracts stand on essentially different footings appears not only from the above summary I have given but is further accentuated by the later developments which have taken place since the formation of

the province. Whenever it was felt that there was any practical difficulty, areas which were under the control of the District Officer have been transferred to Agencies and areas under the Political Agent to the District Officer. Thus we find the Aka Khel Afridis were transferred from the District Officer to the Agency in 1909-10 and conversely, the Bhittanies previously under the control of the Political Agent of Wana were in 1902 transferred to the political control under the Deputy Commissioner, Dera Ismail Khan. Not only this. But in 1908-09 a Residency was created by which the Agencies in the south were placed under the charge of the Resident. In former days the Political Agents of the Agencies used to correspond through the Deputy Commissioner and the Commissioner. But for several years by now they have been altogether independent of the Deputy Commissioner. The tribes under the District management are referred to as "Minor Tribes" in the Border Administration Report of 1912-13 (*vide* page 3).

Mr. Pears in his memorandum which he submitted to this Committee has also drawn this distinction between these two tracts very pointedly (*vide* page 755), "The solution for this vital distinction," he says, "has been found in the creation of these Political Agencies and no better solution has ever been suggested." Sir John Maffey also in his evidence in paragraph 4 of his memorandum submitted to this Committee says "with larger districts and more numerous and powerful tribes the arrangement by which the charge of both district and tribal areas was with one man had in the more important tracts to be abandoned." Later on he refers to the same thing and says "But in certain cases where the tribes are unimportant or where there is no great road running through the tribal tracts, the Deputy Commissioner is also the Political Agent." So that the proposal to separate the actual administration so far as District Officers are concerned who alone are mainly responsible, will not be a departure from existing practice, but, on the other hand, will conform to it—the only difference being the District Officer in charge of the districts will be made responsible to a strong local Government which is equipped with the necessary machinery for directing and controlling internal administration. The District Officer, *i.e.*, the Deputy Commissioner, will continue to have the political control of the adjoining area of which he is in charge in which respect also he will be responsible to that local Government, of course through the Commissioner and the Punjab Government will have real authority and power to issue final orders in respect of affairs with clans on the immediate border fringe and in all but matters likely to lead to serious results and hostilities on a large scale. The more important tracts and the more important tribes will continue under the Political Agents under the control of a Commissioner responsible to the Government of India.

Advantages of the proposed scheme. 28. Let us now consider the advantages of and the objections to this scheme. The advantages are :—

1. The districts will come under the control of a strong Government which will be able to press the district point of view with greater authority and the head of that Government will be a person whose views will necessarily be broader, and less circumscribed than those of a Chief Commissioner who cannot as a rule avoid dealing with matters solely from a local point of view, "being in the heat and dust of the battle so to speak and cannot approach the consideration of questions which arise with a dispassionate mind."
2. The officers will be recruited from a larger service, will have a broader outlook, and will have had more experience in civil administration and will be emboldened to press the district point of view.
3. The people of the districts will be driven to move with people of advanced views and will thereby imbibe the spirit of self-advancement and self-development on broader lines.
4. Many of the defects as they exist now in the administration are bound gradually to disappear though not all at once.

5. Greater economy in the administration will be secured—and on this, emphasis can never be laid too much.

Another equally efficient and equally economical remedy for the existing state of affairs is not possible.

6. The Chief Commissioner acting as the Agent of the Governor-General will have greater leisure and latitude to attend to external relations with the tribes which, we have seen, have now become so grave and are daily growing graver.

It is admitted on all hands that change, in its nature radical, is needed. The change proposed by my colleagues of creating a stronger local Government without separating the administration—if the logic of it is studied—will land us in a constitutional anomaly of the direct administration by the Government of India synchronising with the establishment of a strong local Government “with all the powers of a local Government.” The external relations are such that no Indian Legislature can think of entrusting them to any local Government. The legal and constitutional responsibility for the administration of the province being with the Government of India, we cannot divorce such an administration from the Government of India and from the Central Legislature.

29. Let us turn now to the disadvantages of, or objections to, the scheme.

The possible objections to the proposal One main objection, if not the sole one, examined. which every one pressed was this inseparability of hill politics from the plain politics. My proposal, as I have shown above, gets rid of that objection wherever it really exists by continuing the political charge of the various Deputy Commissioners in their hands. That objection will not apply as I have already shown to those other political tracts which are under the charge of Political Agents; and this point is brought out clearly in my examination of Mr. Pears as recorded at pages 780-781 of Volume I. He advocated that the Political Agent should be kept independent of the Deputy Commissioner and when asked, ‘How do you reconcile this view with your opinion that there should, if possible, be one officer—viz., the Deputy Commissioner who will adjust the difference between his British subjects and the trans-frontier tribes?’ he answered—‘Quite easily. My opinion referred solely to a Deputy Commissioner who was in charge of a tribe living inside and outside his district. But in other cases, a Deputy Commissioner who was in a position superior to a Political Agent would have to feel the interests of his political charge as he felt the interests of his British subjects.’ He advocates independent officers who will have each his own independent charge—one, of the Districts and the other, of the Political tracts. All that he wanted was that there should be a Chief Commissioner who would control both and the only reason he could assign against the separation was that in work as between the two sections friction would be avoided by having a common superior on the spot. He was quite definite that the ideal was not that the Deputy Commissioner should be his own Political Agent in respect of all the trans-border area. Sir John Maffey also was inclined to agree with that view. But Major Bruce, Major Garstin, Mr. Pipon, and Colonel James hold definite views the other way—that the political officers in charge of political tracts should be subordinate to the Deputy Commissioner of the adjoining districts. So that expert opinion is not uniform on any matter except with regard to this. They all agree that there should be a Chief Commissioner to whom the two independent officers might look for guidance and control.

I do not minimise the importance of that position. But its importance should not be so exaggerated as to drive us only to one conclusion, if in fact the interests of the districts demanded separation. All that the witnesses urge or can urge in support of their position is this that if conflict arises there must be an officer on the spot to decide and that the presence of such an officer minimises the chances of such conflict. But then we have to remember that after all they are officers of the same Government having only one end in view—viz., the protection of the British subjects in the settled districts and especially that they would be senior officers and therefore experienced. Although there have been independent Political Officers and independent District Officers all these years in several parts of the frontier, the occasions on which differences arose so as to

call for any reference to the Chief Commissioner have been very few and Sir John Maffey admits this at page 135 of his evidence. When he was asked, 'Are such cases many or few?' The answer was, 'Few.' And very often they are settled amongst themselves. Very few cases come up to the Chief Commissioner. Very few cases of critical difference of opinion—and all that he could say was, 'They are so vital when they occur.' And this is the reason they want a Chief Commissioner on the spot, and it is on account of a mere possibility like this we are to abstain from taking a step if it is called for in large interests. I can understand the importance and gravity of this objection, were we dealing with two independent foreign Governments having divergent views. Where, as here, the paramount interests are common and both are subordinate to a common superior authority—the Government of India, I do not think much importance should be attached to this objection. The object of the separation is to subordinate the interests of the trans-border people to the dominant interests of the British subjects. That they have not been so subordinated, for long, is the gravamen of the charge against the present administration; and this is attributable to the fact that the common superior either because of instructions from above or from his own inclinations or by pressure of his political officers has not exercised that control on the Deputy Commissioners as he should, and could, have done.

30. Nor is this to be remedied by giving a local Legislative Council even with its full powers as it obtains in the Punjab. This is the alternative remedy suggested by my colleagues. These mat-

**The suggested alternative remedy—
Introduction of Legislative Council.**

ters would be outside the function of the Council. What is really needed is a strong executive higher authority to deal with internal affairs to which the district officers should be responsible, and this cannot be had; having regard to the complicated nature of the questions by merely giving a Legislative Council to assist the Chief Commissioner.

I have no objection to give a voice to the Chief Commissioner acting as the Agent of the Governor General in respect of matters connected with the district administration involving external relations. But no more than a voice. I wish to leave the final authority in the hands of a stronger Government who will look at it mainly from the point of view of the districts. This is absolutely wanting in the present system. Some measure is needed to provide it: and that has to be found with the minimum disturbance of the existing arrangements and with due regard to economy in expenditure as this province is already worked at a huge deficit. Financial considerations, alone,

Financial position.

are sufficient to stagger one in making this miniature province a self-contained unit of a first class province with a Legislative Council, an Executive Council and a minister, with all the several departments and departmental heads, and all other paraphernalia. The reforms have been costly in every province and the pinch of it is felt everywhere, even in much bigger provinces. Mr. Bolton, the Secretary, has re-arranged the distribution of the financial burden between the district and the tribal area—so as to reduce the deficit worked out by Mr. Dutt. I am not sure how far his re-distribution will be accepted—for the financial expert, Mr. Dutt, who was put on special duty for this very purpose, has reported quite differently showing deficit of nearly 56 lakhs in respect of the settled districts alone and that with the concurrence of the local officers. How far Mr. Bolton's estimates either as to Revenue or as to Expenditure can be safely relied on as a basis for our conclusions can be judged from the fact of this difference and from the disastrous failure of the financial anticipations on which the separation and formation of this province were sanctioned and entered upon.

Everyone of the official as also the non-official witnesses before us anticipates an increase in expenditure if this small province is to be given a local Council. All of them expect the Government of India to contribute and indeed claim it as of right as for a watch and ward province. But there is a limit even for that responsibility, and financial responsibility necessarily involves retention of control in the same hand. To talk, therefore, of a local Legislative Council, with full powers over the budget, money being found by somebody else, with an executive Councillor and a Minister, is to my mind unthinkable for this miniature province.

31. Almost every responsible officer examined by this Committee has warned

Official opinion on *refo ms.*

us to be cautious in introducing reforms in this province. Mr. Pipon says 'We should have to proceed cautiously in bringing the reforms into operation. I am still inclined to be a little partial to the principles which appealed to me in 1920—that the election should be gradually and not immediately introduced, even among the local bodies.' Sir John Maffey himself when he was examined at Peshawar, spoke very guardedly on the subject although he was prepared to change the view which he held in the early part of 1921 when he advocated merely an Advisory Council. When he was asked whether he was for introducing some elective elements because he spoke only of 'selection of councillors' and 'restricted selection,' he answered that was a matter which the Government of India would have to decide, that he did not think it was one on which he would have been called upon to give an opinion and that he was then prepared to accept the principle of election in matters like the bar association. When Mr. Raza Ali pursued the matter further and pressed him for his views, he was content to leave it with the answer he had already given to me (*vide* pages 136, 137, 141 to 143 of Volume I of Evidence) and as to the elective principle in the District and Municipal Boards, he was prepared to favour it "in a fractional way" in order "to give it a trial." After we had taken evidence in the other districts, it became evident that the bulk of the Muhammadan opinion was in favour of amalgamation with the Punjab, in case full fledged reforms were not given to this province.

Sir John Maffey was again examined at Abbottabad at almost the conclusion of our sittings in the districts, and Syed Raza Ali again returned to the charge (see pages 213-214 of Volume II). Mr. Raza Ali prefaced his question thus—'There seems to be an impression abroad, so far as I have been able to study, that if this amalgamation with the Punjab does not take place, then the people of this province will not get a substantial measure of reforms. That seems to be the impression among a very large number of the people. Do you think that there is any foundation for that?' The answer was 'The final decision of course in a matter of this kind will rest with the Government of India. Speaking for myself, I should say that fear is totally groundless. A Council here could not possibly be a mockery' and when pressed further he was prepared to consider favourably a 60 per cent. proportion of election to the Legislative Council and a substantial majority of members in District and Municipal Boards being returned by election. Thus in the course of less than 3 weeks Sir John Maffey was prepared to change his views on a very important matter like this. It was a choice between amalgamation and the grant of these reforms. My reading of his evidence is that he was prepared to choose the lesser in his view of two evils.

Other official witnesses are also very doubtful about the capacity of the province to take up full fledged reforms as an independent unit. Major Bruce, the Deputy Commissioner of Kohat, says, "I should very much doubt whether a Legislative Council would be of any benefit or whether the province is at present prepared for it." Pressed on that point (*vide* page 513, Volume I), with the question: "Do you think it is possible to start the whole reform machinery in this province, as it obtains in the Punjab," he answered, "I do not think so. It is a very small province which cannot afford the expensive machinery of the reforms. The cadre of the services is so small that they do not get the benefit of the best talent, European or Indian, available in the Punjab. It is a natural disadvantage to a small province and one and all have to admit it. It may be perfectly correct to say much of the reduplicated machinery to run a small province as a separate province will be reduced." He also admitted "that the trans-border tribes have always, absolutely, some associates inside the territory" *vide* page 498, Volume I. Colonel James, also, in his evidence, was very guarded. He would advocate in the first instance the setting up of an Advisory Council only. The members should be nominated and not elected, as the franchise is not understood by the electorate even in the most elementary form. There are elements of danger in forming an elected council in the absence of a full sense of responsibility (*vide* page 428, Volume II).

Major Garstin likewise says, "The people here are a little backward. They are not yet in a position to press their own views in an *independent* manner, you have

got to *make a beginning*. I think the time has come. If it has not come, it is coming. It is very near at hand."

Major Crosthwaite, the Deputy Commissioner of Peshawar, says, "As to its expediency from an administrative point of view, I have my doubts." The composition of the Council should, at first, be such that the local administrators' hands should not be forced unduly. As there is a desire on the part of a large number of persons to return to the Punjab, and one of the reasons is there is no Legislative Council, it would undoubtedly give great satisfaction to give a Legislative Council (*vide* page 103, Appendices, Volume III).

In the first stages of our enquiry in the districts, opinion was very guardedly given by the other witnesses on this matter.

On the 9th of April 1921 when the people of Peshawar presented an address to Sir John Maffey on his assumption of the office of Chief Commissioner, they referred to Sir Hamilton Grant's proposals to create an Advisory Council for the province as "most gratifying" to them. They stated that the province was very backward in education and that they wanted encouragement. In his reply, Sir John Maffey emphasised the fact "that an Advisory Council was all that could be thought of." So far as I am able to see, the creation of a Legislative Council for this province as an independent unit, for the first time finds a place in the suggestion embodied in the questions referred to this Committee. I am not able to find any trace of a demand for or suggestion of a Legislative Council with this province as an independent unit, before the Government of India Resolution raising this suggestion. In a note prepared by the Chief Commissioner on the 15th August 1921, which has been supplied to this Committee, he was emphatic that the "political reforms as in the Punjab were utterly foreign to Pathan character, incomprehensible to their feudal sentiments, and never seriously demanded except by irresponsible agitators." Sir Abdul Quayum, the leader of the Pathans and the most trusted of them all by the officers, a man with a very large experience, must have therefore surprised Sir John Maffey when he stated before this Committee that this province might be made into a model province with all sorts of reforms "improvements" and developments but apparently, he had not much faith in the reforms, for, in answer to a question by Mr. Samarth, he said, "I do not see any good or benefit having come out of the reforms," and as he quaintly put it, "It is better to put in our Bill for it at once."

32. Khan Sahib Sad-ud-din Khan, a highly respected non-official Muhammadan pleader in Peshawar, recognizes emphatically that a small province like this carried on as a separate entity would never succeed. K. B. Abdul Ghafur Khan while he is emphatic that the direct control of the Government of India over the settled districts should cease, and be confined only to the trans-border tracts, as the present system does not admit of political reforms being introduced, wants a Governor and Council as a local Government with a Legislative Council. He is also clear that district officers should be distinct from purely political officers. He is for separation of the districts for administrative purposes, and for constituting them into a separate province and for having the head of the Government to be the Political Agent for the border also. But, notwithstanding these liberal proposals, he is very guarded when he comes to the question of the constitution of the Councils. He would only propose that election should be adopted to a certain extent—indeed even for the District and Municipal Boards he is for election to a certain extent only (page 185, Volume I).

K. B. Ghulam Hyder Khan was also guarded:—"The people are divided into factions. The people here are not so far advanced." He would prefer "selection" to "election" and he says he represents the opinions of 20,000 villagers (*vide* pages 203-204 of Volume I). The Hon'ble Major Muhammad Akbar Khan would prefer only $\frac{3}{4}$ th nominated, the remaining $\frac{1}{4}$ th elected; but if that was not satisfactory, he was prepared to go half and half and that was the extent to which he would go with reference to Municipal and District Boards also; and when the President pressed him with the question: "Supposing you are given a choice between a Council of 80 per cent. elected and no Council at all which would you prefer," he answered: "I say 50 per cent. shall be elected and 50 per cent. nominated," and he was in

favour of mixed electorates and not of those communal. He likewise, spoke for most of the people in his jurisdiction. Mr. Mohammad Aslam Khan, Honorary Magistrate, etc., etc., in his memorandum was distinctly of opinion that the people of the independent territory are being ruled by a Governor of the Administered Districts, and that, that makes the administration of the settled districts very difficult. "The condition in the settled districts is going from bad to worse." The Administration of both these tracts must be separated. The combination of the two functions under one head is very puzzling and undesirable and one of the conditions, on the failure of which he would insist on being amalgamated with the Punjab was this of the separation of the administration of these two areas. He admits there are tribal factions and he would therefore advocate a larger electorate. Khan Bahadur Mian Musharraf Shah wants the Government to nominate large number of people as a pannel, who should elect from that pannel 30 Khans and that the other 30 people should be Government nominees. He again purported to speak on behalf of a large number of Zemindars, and Lambardars, about 20,000 people. Mohammad Sher Baz would not introduce any change at all in the existing system and Kazi Mir Ahmad Khan, B.A., LL.B., and Vice-President, Municipal Committee, Peshawar, was emphatic that it is not possible to have a separate province with a Legislative Council, on economical grounds and on political grounds and he spoke on behalf of the intelligentsia. Ali Hyder Shah while admitting that the internal administration has suffered by this combination of the cis-border and the trans-border under one administration, is for full-fledged reforms or amalgamation.

Khan Sahib Mian Fazli Huq is for separating the administration of the cis-border from that of the trans-border while at the same time he would not amalgamate with the Punjab. He wants full-fledged reforms. He admits there are "so many parajambas, factions, among the people of the province." A Pathan even if he is raised to a high position as that of a Deputy Commissioner or Political Agent will not leave aside his Jambas. He would still pursue his grudges and feuds against the other people. This witness is for half nominated and half elected and he purports to speak as a rural man. But he was positive, however, that the two administrations should be separated. "A conflict of opinions is not bad but it is good" and at page 361 of Volume I he was positive that there should be two different authorities. Muhammad Moaz wants the districts to be separated and to go back to the Punjab. As the Political officers were not fitted to perform the ordinary duties of administration, he held that that was the opinion of most of the Pathans other than Khan Bahadurs, viz., the Zamindars and the poor people. He said while he would be content with a Legislative Council, a High Court, etc., as in the Punjab, he felt it was an impracticable proposition. He was positive that if Khans were allowed to acquire influence, justice will not be done.

Nawab Arbab Dost Mohammad Khan who spoke on behalf of 10,000 people did not want a Legislative Council on the Punjab lines; but he wanted the Government to nominate 600 people and these 600 will elect 60 to the Council. His idea of the powers of the Council was they should have control over the Judiciary and the Executive. He again represented the view of a large population—about 28,000 in British territory.

I have not referred to the evidence of the Hindu and the Sikh witnesses. I have, hitherto, referred to the evidence taken in Peshawar, and that distinctly points to the conclusion that even among the non-official Muhammadans there is a large body of evidence distinctly opposed to a separate province with a separate local administration with all the paraphernalia of a Reformed Government—both on financial and on political grounds. The Peshawar witnesses made a very good impression on the Committee. There is undoubtedly a desire on the part of the influential Pathan Muhammadan, both educated and uneducated, to get more power, or, as one of them puts it, the "entire power" in their hands. Mufti Mohammad Yaqub in his memorandum laid emphasis on "the independent existence of the Afghan and the Pathan, with a province of their own." He did not want a share only of the reforms with the other people in the Punjab which otherwise would be "ours entirely." He is an Extra Assistant Commissioner now in the service. In Peshawar, they—the leaders—could not arrange for a public meeting to consider this question as the Deputy Commissioner would not allow it to be held.

33. In Kohat apparently, Major Bruce, the Deputy Commissioner, at first thought it best to arrange for a meeting of the important people in his district to consider the question. Through his officers he selected a list of persons to be called to that meeting which was held in the Townhall of Kohat on 23rd April 1922. At that meeting there were 67 persons present. K. S. Khushdil Khan, M.C., Rais, Bangash, was elected president and it consisted mainly of Muhammadans. The full proceedings of this meeting are found at pages 441—446, Volume I and it passed a resolution that the province should be reamalgamated with the Punjab. Major Bruce had in his memorandum prepared for this Committee stated, "I have travelled about the district a good deal. I do not believe the tribes who inhabit it are in any way in favour of reamalgamation." He warned the Committee against being influenced by the plausible arguments of clever speakers who very possibly have "personal interests at stake." He must therefore have been surprised at the attitude taken by a meeting of persons selected either by him or his own officers, and some of the timid people present in the meeting apparently went to him to represent that they did not share the views of the meeting. This often happens. He sent the Tahsildar of Kohat about the district entrusting him with the functions of getting memoranda from witnesses to appear before the Committee. He also issued a demi-official circular letter to Khans and Khan Bahadurs, in which he states, 'The Committee is coming to Kohat on the 16th of this month (May). I enclose herewith points, etc., you would probably like to come and see me before the 13th for any assistance' whereas he issued a dry official memorandum to certain other people mostly pleaders to report 'whether so and so desires—to give evidence.' These latter were mostly Hindus whereas the former demi-official was issued entirely to the Khans. The Tahsildar did go out and got memoranda prepared and signed by some of these Khans—opposing amalgamation. Of course Major Bruce did not intend to influence the opinion of the people, but there can be little doubt when you depute a subordinate official like the Tahsildar to canvass opinion among a class of people who are a 'helpless lot' as described by Major Bruce himself, it is no wonder, that the more timid among them thought that they would be pleasing Major Sahib by advocating what to them was his view of the matter. We had a memorandum placed before us dated the 9th of May signed by some of the witnesses who had appeared before us which will be found at page 476 of Volume I and when the signatories were questioned about some of the contents of their memorandum, they gave expression to different sentiments altogether showing that they are not responsible for what is therein contained. The memorandum states 'at present Muhammadans are treated with special favour, in every matter and service, in view of their vast population in this province, though Muhammadans are backward in education. In case of reamalgamation, poor and simple Mussalmans will no longer enjoy these concessions'—*vide* page 479, those signatories were asked 'Is it true that Muhammadans are treated with special favour in every matter and service in this province now?'

A.—"We do not know how it is. Posts are given according to education and qualifications, and family, and other services rendered. We do not know about special favour."

Q.—"Therefore you do not believe that any special favour is shown to Muhammadans?"

A.—"We do not know that any special favour is shown."

Q.—"Is it true that in case of re-amalgamation with the Punjab, the Mussalmans will no longer enjoy those concessions?"

A.—"First we do not believe that there are any such concessions."

We have to examine the evidence given in this district, making due allowance for this official influence which unfortunately was brought to bear on these people. Malik Latif Khan and others say, 'We want to be amalgamated with the Punjab. We have two objections to remaining separate. In the first place, we have not got men competent and qualified to sit in the Council. We want to have training for 20 or 30 years in the Punjab. In the second place, we have no money to meet the additional expenses' (*vide* page 471, Volume I). Pir Imran Shah

who put in a memorandum dated the 18th of May which would be found at page 409, Volume I, opposing separation and re-amalgamation, and who wanted the whole province to remain directly under the Government of India so that 'it may illuminate like a brilliant star under the kind control of the supreme government', when asked, 'How is the Council to be composed, is it to consist of elected members or nominated?' The answer was, "We want a Council". (Page 411 of Vol. I.) When pressed further with the question, 'Do you think the members should be appointed?' The answer was, 'If they are appointed by Government or elected by us it is all good. If we can agree upon any one, he can be elected; if not, it is better that Government should appoint the members.'

Mir Alam Shah of the same group when asked, 'What kind of Council do you want?' he answered, 'We want a Legislative Council, there should be Government nominees in it and some members should be elected by the people themselves' and when he was asked the following question which is self-explanatory (page 413, Volume I) 'You know the present administration of the five districts. There is a Deputy Commissioner in charge of the district. Under him, there is an Assistant Commissioner, then an Extra Assistant Commissioner, then a Munsiff and so on. Supposing the same thing continues. Only the Chief Commissioner will be under the Punjab Government and everything will continue as it is. Now the arrangement is for some Military officers to be posted as Political Agents. Those officers again come back as Assistant Commissioners and Deputy Commissioners, and they are being constantly transferred, and therefore that system will cease and political officers will be in charge of political tracts. Supposing such a system were introduced—would you consider it better—I mean a Chief Commissioner under the Punjab Government', he answered, 'I do not agree with the present administration. If the Chief Commissioner were under the Punjab Government it would be a very nice thing, and when asked further 'Supposing that five districts were put under one Governor and your Judicial Commissioner becomes a Chief Commissioner and then supposing they have nothing to do with the border tracts. What is your view?'

A.—'Then it will be all right. I would prefer it to the existing system.' The same witness admits at page 416 that the Tahsildar wrote the memorandum for them and at the end he retracted the answer which he had previously made to me about the advisability of the separation of the Districts from the trans-border when examined by Mr. Bolton—Khan Sahib Baqi Khan also gives a statement and had signed an elaborate memorandum which he admitted, had been drafted by the Tahsildar and he says the Tahsildar wrote it out for him and others when they were on their way to meet the Deputy Commissioner in pursuance of a chit which had been sent to them. He wants an elected majority in the Council, but he will not give a due share to the Hindus, although it will be unfair. He was positive that no seats should go to the Hindus (*vide* page 449) and when asked 'Won't you like the elective principle to be introduced in the local bodies, District and Municipal Boards,' he answered with an emphatic 'No! People won't agree. So it should be left to the Government.' One can hardly attach any importance to the opinion of such a witness and yet that was the man put up to support the memorandum prepared by the Tahsildar. He has no faith in the Hindu. He wants no changes. He was not amenable to argument. So much so, that Mr. Raza Ali wound up with the question "I take it you are well satisfied with the present administration, and you think that it is almost incapable of improvement. Is that what you maintain?" And this question was put when the witness had said he would prefer an European if a second Judicial Commissioner were to be appointed, to an educated Khattack. In refreshing contrast to this witness, of the other influential persons who were present at the public meeting of the 23rd April, referred to above, Khan Sahib Khushdil Khan, Chief of Bangash, the President of that meeting, Taj Muhammad Khan, a pensioned Extra Assistant Commissioner, Pir Kamal Dilany and K. S. Sherzaman Khan, another pensioned Extra Assistant Commissioner, were examined. They explained their position clearly as to why they want the separation of the Districts and their re-amalgamation and they affirmed that there was always a tendency to back up the tribesmen by the present administration and they pointed out that there was only one officer in charge of both, that the higher authorities do not get full information and they pointed out that it was not a

practicable proposition to have all the reforms as in the Punjab with these districts as a separate unit, they give full particulars as to what happened on the 23rd of April at the meeting which they say was fully representative and they stick to their opinion of the advisability of separation and re-amalgamation. When pressed finally by Chaudhry Shahab Uddin with the question 'you thought, perhaps, that you cannot get these reforms of the Legislative Council and the Judiciary you want, immediately' they answered, 'we have no objection'. When pressed further with the question 'if you are assured that really the reforms will come and all these grievances which you have put before the Committee will be redressed at the earliest possible moment by the Government of India, will you even then care to go back to the Punjab', they answered 'in that case it will be a good thing if we are under the Government of India. We would prefer that'.

Khan Baz Mohammad Khan of Teri is against separation and re-amalgamation and was emphatic that the Province should remain under the Government of India with the rights and concessions granted to the Punjab. He was for extended franchise. He would not agree to a policy of keeping up the influence of the Khans. He was for advocating qualifications being insisted on in the case of recruitment to public services. His opinion was that the Deputy Commissioner should also be the officer in charge of the Political Agencies. Independent Political Agencies as they now exist were objectionable and unless the people get the full measure of reform, people will not be satisfied; and he concluded with the remark 'If amalgamated with the Punjab, as regards myself,—I am the Chief here and if I go under the Punjab, my status will altogether fall into the background and I will cut no figure with the Chiefs of the Punjab'—quite an understandable position from his point of view. This gentleman gave very enlightened evidence, and was very liberal in his ideas. But his ideal of trans-border administration is not accepted by Mr. Pears or by the Chief Commissioner. I have already referred to the evidence of Malik Latif Khan and others coming from his estate, who hold a different view! Syed Mohammad Ashraf advocated separation and re-amalgamation very strongly and while fully supporting the view of Rai Sahib Muthra Das from top to toe, he enunciated a number of hardships suffered by the people under the present administration and says 'they have now risen because they are hopeless of getting anything under the present administration'. He was positive there should be different controlling authorities over the districts and trans-border areas and this was necessary, even if re-amalgamation were impossible. When Chaudhry Shahab Uddin tried to dislodge him from his position with the question 'If that which is taken to be impossible by the people were made possible by the Government, i.e., if all the grievances were removed and better laws and better administration were given, then in your opinion there would be no desire for re-amalgamation', he answered 'if impossibility can be made possible, that will be so'.

So that the evidence of Mohammadans from the Kohat district also is substantially in favour of separation and re-amalgamation. Here again, I have not referred to the Hindu or Sikh evidence. There is one Hindu witness who spoke for the bar, Rai Sahib Rai Zada Eshwar Das who, while affirming the opinion of the bar generally that separation and re-amalgamation were both feasible and necessary, was in his own individual capacity, prepared to recognise there were certain difficulties in separating the trans-border area from the districts. But that they were not insurmountable. He was emphatic that no local Legislative Council would serve any useful purpose. From his answers to me at page 433 and 434 of Vol. I he was prepared to favour the suggestion that the Deputy Commissioner of each district should be in political charge of the adjoining area and Political Agent should be in charge of the trans-border area, the Deputy Commissioner being under the Punjab Government and the Political Agent under the Government of India. This gentleman was a very thoughtful witness and struck all of us as remarkable. I attach considerable importance to his opinion that there should be complete separation of the administration of the two areas.

34. Turning to the evidence of Bannu, Khan Bahadur Zaffar Khan and others filed a memorandum dated the 21st of May, in which they advocated that the five Non-official opinion at Bannu. settled districts should be separated from the political agencies but should not be

re-amalgamated and they also advocated 'all the officials of the Police department up to the rank of the Sub-Inspector and all the civil officials down to the rank of Naib Tahsildars should be interchangeable with their own class of officials employed in the Punjab and that no officer should remain in one district for more than two years, and that one officer remaining at the same place for a long period injuriously affects the system as he has tribal and personal relations with the people; and that political officers should be separately chosen. They further added that the North-West Frontier Province should remain under the Government of India and one member from each district should be nominated by the people or by the Government and a Legislative Council should be thus formed and after 3 years' trial in this Council, they should state clearly whether the Frontier Province should be amalgamated with the Punjab or should remain a separate unit. When examined on that memorandum, they stated 'there should be some elective basis for the Council' and when pressed with the question 'should it be largely nominated or largely elected, he answered 'I have no objection to election but difficulties might arise in the way of blood-feuds and disputes, though in towns, the difficulties will not be so great.' His attention was specially drawn to paragraph 4 (c) of the memorandum filed by him relating to this interchange of officers; he affirmed he attached great importance to that and that applied to Deputy Commissioners, Assistant Commissioners, etc., and Mr. Raza Ali put him the question point blank 'please realise that the proposal embodied by you here will result in very much the same thing as amalgamation with the Punjab; he answered 'no such thing should be inferred from it'. He was positive however that members nominated by the Government should form a majority in the Council, that the people of the province have got factions between them, that unless nominated members were more than elected members there would be many quarrels and feuds. Ghulam Daud Khan of that party also wants only one man from every district to the Legislative Council of the Frontier and when he was asked whether he would like to have them elected or nominated, he answered 'I cannot say'. That witness is a graduate. Khan Bahadur Sher Ali Khan and others filed memoranda dated the 19th May opposing separation and re-amalgamation. They wanted that Extra Assistant Commissioners and District Judges should have frequent opportunities of going to the Punjab and doing work there, and if full reforms are not granted, they want re-amalgamation, 'that there is hardly a Muhammadan whose mind is not exercised over the Khilafat, that while some of them openly express their mind, others do not owing to fear of British officers, that people who agitate for re-amalgamation are people who feel for the Khilafat and when Mahmud Khan, a Jagirdar of Goriwala, one of the group was asked 'have you any other point on which you lay stress, he answered 'I want reforms and nothing more' and I put him a few questions in order to see what he was after, and found that he could hardly understand what budget discussion meant or what discussion of public grievances meant and yet he had subscribed to a memorandum which contained this clause 'if thoughts of liberty are spread in the province like the Punjab, then restlessness would be created, then it would be difficult for Government to control it, etc., etc.', and this is the gentlemen who had stated that he wanted reforms like the Punjab. He was positive his people should not be given liberty. Three Muhammadan members of the bar appeared to give evidence separately as Muhammadans and when asked the question 'Suppose complete amalgamation does not come off, then you desire to have internal reforms, Legislative Council, and so forth,' they answered 'Yes, completely, as in the Punjab'. Mr. Raza Ali put them the question 'I believe what you want is re-amalgamation with the Punjab,' and they answered 'Yes, Sir,' and when pressed further with the question 'You desire re-amalgamation because you think your interests have been so long neglected by the local administration that if you do not agitate for re-amalgamation you will not get all you want', they replied 'Quite so' and when further led with the question 'this demand is put forward because you are almost hopeless of getting any thing', they answered 'Quite so'. These gentleman agreed, however, that full fledged reforms with all the paraphernalia of a Local Government while a feasible proposition, meant an expensive machinery and, if that was not practicable, they wanted re-amalgamation. Mohammad Faizullah Khan and Mohammad Aslam filed separate memoranda advocating separation and re-amalgamation very strongly and their evidence in support was equally strong. Their evidence related also to a particular incident of high handed action in their tracts which I will refer to later.

So that it will also be seen that from evidence from Bannu District confining it to Muhammadans is also substantially in favour of separation and re-amalgamation. The local bar here also strongly pressed upon the Committee the advisability of such a course.

In Bannu also there was a public meeting which was well attended, and Muhammadans, Sikhs and Hindus were present, and resolutions were passed advocating separation and re-amalgamation after full discussion. This was on the 5th May.

From a petition received by the Committee from Huq Nawaz Khan, son of Khan Bahadur Mir Abbas Khan, it appears that in this district of Kohat also there was a certain amount of fear and nervousness in the public mind, to give evidence before the Committee in favour of amalgamation on account of the official attitude.

35. Passing now to Dera Ismail Khan, three Muhammadan pleaders were the first to appear before the Committee with a statement which is remarkable in many respects. They spoke strongly against separation and re-amalgamation. But their views are apparently repudiated by other Muhammadans in Dera Ismail Khan, *vide* letter dated the 25th May 1922 from Khan Bahadur Ahmad Yar Khan Sadozai, retired Wazir, and President, The Anjuman, page 113 of Appendix. I have already quoted a few extracts from this memorandum on another point and I shall extract a few more passages here, *vide* pages 625—629 of Vol. I. "We on the frontier know that it is almost always the hill men backed up by their political officers that win in disputes over a dacoity or a kidnapping affair". They make also this remarkable statement "If you take away the settled districts from the Agencies, so much of the Chief Commissioner's status is lessened. A big Malik of the trans-border wants land or an appointment for his son. The Chief Commissioner says he is helpless in the matter. The Malik says 'if you are so helpless, why should I serve you'? Instead of Government service, he finds employment for his son by enlisting him in a gang of dacoits. These are matters of everyday occurrence and cannot be ignored if a peaceful rule over the Pathans is to be maintained". As regards the Council they say in their evidence we think we should have a Legislative Council here. The Council should not have extensive powers. The Chief Commissioner should have vast powers. Only some men not more than 10 out of 30 should be elected; others must be nominated. The Pathans are not much educated. There is little co-operation among them. The people do not know the responsibility of votes. There are factions among the Pathans. The experiment has to be tried. For some time at least it would not do much good. We would not give the vote to all people but to selected people. The Deputy Commissioner should select the panel and that panel should select the ten. I want this merely as an experiment. He will not give them power over the budget. His idea was that it should be an Advisory body; that they should not move resolutions. Faizullah Khan accepted that view in a way and so did Abdul Aziz (*vide* pages 640—643 of Vol. I). When Nur Bukhsh was asked whether he would like to have his Legislative Council so framed that he would have one minister attached to the Chief Commissioner, he answered 'Not in the Pathan Province'. Faizullah Khan differed from that view. Abdul Aziz of the group took a broader view at the end. He would have all the reforms as in the Punjab including a Governor in Council. Nawab Habibullah Khan who belongs to a most respectable family and whose father and grandfather have held distinguished posts in the Political Department, and who has himself held several offices, advocates separation and amalgamation. He presided at a public meeting held at Dera Ismail Khan at which resolutions in favour of separation and amalgamation were passed. When he sent a telegram to the Chief Commissioner forwarding the resolution of the public meeting, the Secretary to the Chief Commissioner wrote to him a letter expressing the surprise of the Chief Commissioner at the attitude the Nawab adopted after the conversation he had had with the Chief Commissioner, and the Nawab's reply was as follows:—"At the time when I had a talk with the Hon'ble the Chief Commissioner, I had not discussed the matter with my friends, relatives and the general public and I had not therefore formed any definite opinion about it. Since then, I had had long talks with many persons

in which I took the side against amalgamation. Not merely I failed to convince any one of them, but on the other hand, they have brought me round to the view that the best interests of the benign Government and the people lie in the amalgamation. I can assure you I am acting with the best of motives and it is my full belief that the majority of the people of at least this district are in favour of amalgamation." With reference to his letter and the letter to which it was a reply, Sir John Maffey informed the Committee that he was not aware of it and that his Secretary must have written it on his own responsibility.

This gentleman is emphatic that he would not have a local Council, for he points to the *jirga* as standing evidence of what it would be like. This was a significant answer in view of the universal testimony condemning the *jirga* (*vide* page 710 of Vol. I). They had all nothing but contempt for the gentlemen who sat on the *jirga*.

Khan Sahib Sirdar Muhammad Gul Khan wants only a 'restricted election' while insisting on a local Council. He wants an Advisory Council for the Chief Commissioner, as well as one Council for each Deputy Commissioner. He wants election in a particular and a peculiar manner. 'It should not be given as in the Punjab. It would be detrimental' and therefore he would not advocate it. He was distinctly of opinion that strong and effective measures had not been adopted by Government to put down the raids and that the administration hitherto had not been efficient and that the present administration had been deplorably weak in that matter. His chief objection against amalgamation was 'as far as Islam is concerned, and the Muhammadan idea of the League of Nations goes, amalgamation with the Punjab would be prejudicial and detrimental to that idea,' and that was the dominant idea which compelled him not to have amalgamation with the Punjab. He, further, held the strong view that the people inside the border and across the border had common ties and that the interests of the people across the border will suffer by amalgamation and his fear was that if the Punjab Government were given charge of these five districts, they would look more to the interests of the five districts than to those of the people of the border, and that the logic of the stick would be applied to a larger extent than it is done now, although he would advocate its adoption with an appeal to their interests. If the districts should be separated, he was for keeping the Agencies under the Government of India (*vide* page 735 of Vol. I). This gentleman has held various offices and has considerable experience of the people about whom he was speaking. He thinks the whole fabric of political officers in charge of the trans-border area is wrong, and especially with reference to native assistants.

Nawab Ala Dad Khan Alizai while he was for a Council, would give it only some powers. The controlling power must be with the Chief Commissioner. There should be some election but the majority of the members was to be nominated by the Chief Commissioner. Rai Sahib Lala Ruchi Ram and Lala Gansham Das, two Hindu witnesses who speak against separation and amalgamation, mentioned only difficulties of accommodation, and all that, for the Political Agent holding *jirgas* and for the Political Agent's Headquarters in the independent territory, and when they were asked as to whether if those difficulties could be got over, the districts could be amalgamated with the Punjab, they answered 'yes' but proceeded to enumerate other difficulties. They were for a Legislative Council, half being elected and half nominated. They admitted that they had to shift their place of residence as life and property were not safe at their native place and they used in 1900 to ride on ponies at night right up to the hills without any danger as far as the Frontier border line, that there has been great insecurity since 1912, that people pass sleepless nights, that they do not sleep without a proper guard and that the people feel that the Government are not doing everything they ought to do, and that radical changes in the administration are needed, that by association with the trans-border tribes the people of the districts had deteriorated and that they would advocate the separation of the five districts if the two difficulties which they mentioned, *viz.*—(1) a suitable place for holding the *jirga* and (2) a suitable place for the Political Agent's Headquarters were got over.

Major Nawab Ahmad Nawaz Khan is against separation and amalgamation. He wants reformed Councils with such modifications as are suited to that province.

His fear was that the excitable population in these districts would join the excitable element in the Punjab and therefore it would be a political blunder.

Khan Bahadur Ghulam Qadir Khan, M.B.E., retired Revenue Assistant and Khan Sahib Nawab Zada Azadullah Khan, both advocated separation and amalgamation on the grounds that affairs of the unadministered areas have assumed large proportions and required separate handling. Policy demanded it; Justice called for it; Humanity was interested in it; Economy desired it and the law of self-preservation needed it. Khan Bahadur Mehrban Khan and four others gave evidence against amalgamation and separation. One of their main reasons against amalgamation was 'the conditions are such that even men of very little education get appointments but that won't be the case if we are amalgamated with the Punjab.' They wanted only half elected and half nominated in any Legislative Council they may be given.

Makhdum Abdul Sattar and Mohammad Hussain Khan also gave evidence against amalgamation. K. B. Nawab Hafiz Saifullah Khan, ex-British Agent at Kabul and at present Extra Assistant Commissioner, Baluchistan, sent a memorandum praying he was in favour of amalgamation and stated in his evidence that it was his firm opinion that when they were part and parcel of the Punjab, they were making progress in every walk of life and that since the separation they had commenced to go back. He wanted improvement in every direction and if internal improvement cannot be effected, he wanted re-amalgamation. He considered it expedient to separate the settled districts from the tracts but he was for keeping it under one head and if on account of want of funds or for any other cause, reforms could not be had, he was strongly for re-amalgamation. There were a few other unimportant Muhammadan witnesses who generally stated they were against amalgamation but gave no valuable evidence in support thereof. Kazi Ahmed was clear that the Chief Commissioner was too busy to attend to both duties and on ground of economy and also on political grounds he advised amalgamation of the districts with the Punjab. He owns two villages in the district. Nawabzada Abdul Rahman and three others filed a written memorandum opposing separation, and advocating a Council. They wanted half and half elected and nominated. One of them had signed a memorial only the previous month, advocating separation and amalgamation. In Dera Ismail Khan it will be noticed there is a large body of witnesses who advocate the grant of a local council, most of them favour half and half elected and nominated; some of them wish to retain the vast powers of the Chief Commissioner; while some others are sceptical about council and election. I have not referred to Hindu and Sikh witnesses barring two, who are substantially in favour of separation and re-amalgamation and the bar also strongly pressed separation and amalgamation as well on political as on financial grounds.

By the time the Committee reached Dera Ismail Khan the idea had gained currency that with internal reforms there was full scope for some big appointments being available for natives of the province—such as an Additional Judicial Commissioner, a Minister if not also a Councillor. Before leaving Dera Ismail Khan reference should not fail to be made to an able communication received by the Committee from a Muhammadan lady, Khadija Begum Ferozuddin, M.A., which will be found at page 108 of the Appendix. I am tempted to give a few extracts. From Bannu where she lives, she writes "how many times they have been disturbed by the reports of guns in the middle of the night. Is there any man, woman, or child who has not awakened terrified by these unpleasant sounds. Kidnapping has been the order of the day and we are scarcely ever astonished to hear about any case. Life has been destroyed ruthlessly, loss of property has been untold. We wept, nobody consoled us. We cried; nobody came forward to help us. We waited patiently with eyes and hands uplifted in anxious expectation. It seems, kind Heaven has at last taken pity on us. Is it possible our sufferings are at an end! Is the night over? It is hardly to be believed. The Government of India has been pleased to appoint a Committee to consider the amalgamation question. I wish I could come forward to give evidence. But the restrictions of Purdah withhold me."

And after referring in detail to various defects, she concludes, "Half measures such as introduction of a Legislative Council and subordinating the judiciary to the High Court of the Punjab will do no great good."

36. As I stated already by the time the Committee reached Abbottabad, the idea that the Muhammadans would profit more by internal reforms and that their interests would suffer if amalgamation takes place, had begun to be spread broadcast, helped in a way by official agency also. On the 24th of April 1922 there was a public meeting held at Abbottabad, after a previous preliminary discussion on the 23rd of April, which was largely attended by Muhammadans, Hindus, Sikhs, and at which Major Weir, the Deputy Commissioner, was also present. Rai Sahib Permanand gives us a full account of what happened on the 23rd, and the 24th at pages 7 and 8 of Volume II. The chair was taken by Maulvi Sultan Pir and resolutions were unanimously passed advocating the amalgamation with the Punjab of all the districts and at any rate of the re-transfer of the Hazara district: there were other meetings also at Naushera and other places when similar resolutions had been passed. Sirdar Mohammad Fakhruddin Khan says at page 336 of Vol. II that he seconded the resolution at that public meeting at Abbottabad and that he has since changed his mind. Both he and Mr. Permanand and Lala Ishwar Das believe that Extra Assistant Commissioners have been going about the districts eliciting opinion on the subject matter of the enquiry by this Committee, and several Extra Assistant Commissioners from outside were gathered in that district at the time of the enquiry. In the examination of Lala Ishwar Das by Mr. Bolton at page 208 of Vol. II, the justification is put forward "if leaders can do propaganda work Extra Assistant Commissioners were entitled to undertake propaganda work 'on the other side' and 'Lala Ishwar Das' answer was 'Their positions as Government servants are likely to influence the people whose opinion they are seeking. Their conduct is indiscreet, while they are welcome to have their individual opinions, for people would believe that the Government wants them to take a certain view.' It was well known in the province that the Chief Commissioner and all the Deputy Commissioners were holding strong views on every one of the points referred to this Committee as each of them had conversations on the subject with many people and, I am not sure that answers in one way to the questions referred to this Committee were not taken or would not be taken as casting a slur upon the present administration and I was therefore not surprised to hear that Indian officials in the Frontier Province were loth to come forward and wished to be excused (*vide* page 295, Volume I). At that time I was struck with the fact that no Indian officer had been asked to send a memorandum to the Committee. We had received memoranda from the various Deputy Commissioners and I wished to find out whether these were Indian officers of experience who would assist the Committee. I was told that Rai Bahadur Lehna Singh was a very experienced official and one of the ablest officers and that when he was asked to give evidence he wished to be excused. I understood from what some of my colleagues said then that he was advocating re-amalgamation. He appeared later on at Abbottabad and gave some queer evidence on the point which I will refer to later.

Reference to the evidence of Rai Bahadur Hukam Chand will not be out of place also. He seems to consider that a further trial may be given to the present administration and if things got worse then amalgamation may be made with the Punjab. *Vide* pages 374 and 380, Volume II. Apparently he feels amalgamation with the Punjab as a reflection on the present administration. He words it thus 'If the administration is beyond the control of the Chief Commissioner then the districts may be re-amalgamated' and he is an Extra Assistant Commissioner. I am not surprised that Indian officials take this view. Referring again to Sirdar Muhammad Fakhruddin's evidence at page 337, in explaining his reasons for changing his opinion, he states as follows:—When asked by Mr. Raza Ali 'you state in the memorandum that you supported a resolution passed at a public meeting in favour of amalgamation, I take it in April you were in touch with that school of political thought which advocated amalgamation with the Punjab,' he answered 'Yes.' Further asked 'what the idea of the people then was,' he answered 'they only knew that the enquiry would be whether Province should be as it is or be re-amalgamated with the Punjab. They did not know the possibility of reforms being given' and after stating 'that he was in touch with Mussalman opinion, both urban and rural, and also with Hindi opinion' he stated, that there was no doubt that all the people preferred amalgamation with the Punjab to the

continuance of the present state of affairs. When asked 'when did this change in idea set in,' his significant answer was 'immediately when they saw that one of the issues before the Committee was the possibility of the establishment of a Council and the grant of other reforms,' and he thinks that the majority of Muhammadans changed their view on that account. This confirms the impression which I gathered as already stated that the first idea of a local Legislative Council for this small province did not emanate from the people but was for the first time suggested in the issues referred to this Committee. He would have reforms only gradually introduced. He is clear, people have not got freedom of expression of opinion under the present administration and that they do not get justice. He would have a Council of 30 half to be nominated and half to be elected. Reference to a memorandum at page 344 of Vol. II will be instructive as showing what sort of propaganda was at work in influencing public opinion. It is headed 'Rights and Benefits of Muhammadans' and the position is contrasted in case of amalgamation and the case of separation thus, page 344 of Vol. II—

	<i>In case of separate province.</i>	<i>In case of amalgamation.</i>
1. Selection of Muhammadans to lower and higher posts, titles and membership of Council of Elders.	90 per cent.	10 per cent.
2. Educational facilities of Muhammadans and agriculturists	90 „	10 „
3. Grant of titles, Inams, Jagirs, Pensions, Lambardarship and other honours granted to Muhammadans.	90 „	10 „
4. The commanding position of Muhammadans and proportion of their population.	90 „	10 „
5. Prevention of crimes committed by independent tribes ..	Most satisfactory.	Equal to nil.
6. Exemptions from Court fees, etc.	Do.	Do.
7. Saving the Muhammadan indebted gentry for the ruinous results of indebtedness on the executive side.	Do.	Do.
<i>Facilities in Legislation.</i>		
8. Expenses and travelling inconvenience ..	50 per cent	100 per cent.

Frontier Regulations.

Defects.

Benefits.

Nomination of <i>Jirga</i> members against the wishes of the public.	Prevention of crime. Exemption from Court fees. Settlements according to lesser expenses and inconvenience due to absence of appeal system—compromise in most cases. Relief from the clutches of pleaders.
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Some of the signatories to that memorandum were examined. They confessed ignorance of some of the contents of the memorandum to which they subscribed (*vide* Volume II, page 346). They were asked by Mr. Samarth "You say in the memorandum that 'certain signatures, and thumb impressions in the memorandum are being taken in favour of amalgamation.' But it is very easy to do so in a country like this where people are mostly illiterate." The answer was "I have not given any answer like that. I have not put my signature or thumb impression to that. I am not prepared to give any such opinion."

Khan Sahib Zafar Khan considered that a Council with a half elected element is too liberal, *vide* page 367 of Vol. II. He made a significant statement at page 363. 'Even Provincial service officers also have got factions, just as Pathans have, and the service is mainly among Pathans if not entirely.' He stated also at page 373 'I do not want all the paraphernalia of reforms being introduced all at once, and when asked whether this province is fit to have a minister in charge of certain transferred departments, his answer was 'I think if a minister is required, he may be appointed; otherwise not,—just as the needs of the province require.'

I do not think any more detailed reference need be made here to the rest of the non-official Muhammadan evidence taken at Abbottabad, as I consider the official and non-official propaganda in this district on the lines indicated above has been

strong. Colonel James handed over charge of his office as Deputy Commissioner on the 23rd of April; on the 24th April, he proceeds to Nauselhra and has a conversation with the people of the surrounding parts, Basla and other places, where he admittedly discusses with them, as he says, 'the *pros* and *cons* of the question.' Extra Assistant Commissioners are employed to collect memoranda from the people. That the official influence was felt is clear from a memorial sent to His Excellency the Viceroy about the end of April. That people who advocated amalgamation were considered to be 'political' appears from a letter written by a Muhammadan gentleman, and addressed to the Committee. From this district hails the warning forbidding re-entry to those who would dare attend the Congress. From this district again springs the executive action ordering about a pleader and his place of residence. From this district again did a Congress Committee have a week's life and its chief officer orders their arrest.

37. From the evidence discussed *supra*, it will be seen the idea of a local Council with its attendant internal reforms is not

Non-official opinion summed up. genuinely the people's demand. It is a recent idea. The bulk of responsible Muhammadan opinion is apprehensive about its suitability and success. The entire bar is against it. The intelligentsia, in its entirety among the Hindus, and to a substantial degree among the Mussalmans, do not approve of it. No Deputy Commissioner is for it whole-heartedly. The Chief Commissioner changed views regarding it within a very short time. Above all, the power of the purse is meaningless as the purse in point is that of all India.

I am therefore decidedly of opinion that the alternative remedy suggested, *viz.*, the combination of the two tracts under one administration with a local Government and Council, is constitutionally unsound, politically inexpedient; financially apt to prove disastrous, and finally, wholly insufficient to eradicate the root-cause of the present sufferings of the people of the districts. A perusal of the resolutions at public meetings, wherever they were allowed to be held, show that the people were for separation and re-amalgamation.

Other objections to separation and re-amalgamation dealt with.

38. Let me now proceed to deal with some others of the objections to separation and re-amalgamation:—

- (i) In the first place, it is said that the population of the North-West Frontier Province Districts consists approximately of 95 per cent. Muhammadans and 5 per cent. Hindus and that of the 95 per cent, Muhammadans 70 per cent. are Pathans, that the people of the districts are thus very closely connected with the people of the hills by both language and characteristics and should therefore be under one central control.

To start with the proposition is over-stated. The Pathan population in all the Districts is only 8·89 lakhs of a total of 22·58 lakhs. In Hazara and Dera Ismail Khan they form only ·55 and ·56 lakhs against a total of 6·22 and 2·60 lakhs, respectively. True, in Peshawar, Kohat, and Bannu the proportion of Pathans is one half or nearly one half; out of a total provincial vernacular of 22·58 lakhs Pushto-speaking people are only 12·09 lakhs. In Hazara it is only ·31. In Dera Ismail Khan it is only ·59.

In the next place on this theory one may well justify the occupation of Afghan territory likewise for most of these tribes have got their cousins across the Durand line. In the third place there are tribes under different administrations like the Shiranis and those on the borders of Baluchistan. In the fourth place, the question is where the central control should be. All the Administrations will be under the central control of the Government of India. If what is meant is one central but *local* control the evils of the system far outweigh its advantages as shown already.

As a second objection it is urged the administration of the Districts and Agencies must necessarily depend considerably on each other and that the officials should also be in close touch with one another. The first answer to this is, it is not so in practice—contrast the Agencies and the Districts. The second answer is that the proposition is true only of the fringe of hills bordering the districts and that the

present proposal obviates that difficulty. The third answer is all the officers belonging to one Government are expected to co-operate, as indeed they do. The chances of conflict are rare and conflict is not of itself an evil.

- (iii) In the third place, it is stated the inter-transfer of officials between Agencies and Districts is most desirable, as thereby these officials become acquainted with the difficulties of both. This is a doubtful proposition. Colonel James admits in his evidence at pages 448 and 449 that the ideal arrangement would be for officers to get a preliminary training both in the Trans-border and in the Settled districts and then they should be asked to choose District administration or Political service, as the qualifications required of a District Administrator are quite different from those required by a political officer. There is high authority for this view in other books also.
- (iv) Next, it is stated, the customary law and language of the people differ very widely from those of the Punjab. This is an assertion without proof. In fact most of the laws administered on the Frontier Province are borrowed from the Punjab. Any difference there may be, has been made the subject of statutory enactment. There was no such difficulty felt while for 50 years the Districts were under the Punjab.
- (v) Next, it is contended, that officials who come to the districts will find difficulties about the language. It is admitted European officers come here without the knowledge of the language of Pushto. In the next place, Pushto is not the official language. In the third place, the case is over-stated as already pointed out. In the fourth place the difficulty was not felt when the Punjab administered the districts. In the fifth place Pushto allowance is continued and can be continued.
- (vi) Will it not be difficult, it is urged, to get officials to volunteer to spend their whole life in Agencies, if the Agencies were to remain separate? The answer is, in the first place that they should spend their whole life is an assumption for political officers can be transferred to various political posts all over the country and elsewhere. This is not an objection which should weigh, if separation is needed.
- (vii) Again it is objected the supervision of work cannot be so careful and close as it is now with the Chief Commissioner in charge. The Chief Commissioner unfortunately occupies a position analogous to that in a Governor of a Province. His inspection or supervision cannot of the nature of things be so careful or close in regard to the internal administration of these districts as those of a Commissioner of a Division. As a matter of fact, his visits to the districts are about only once a year; during times of stress or disturbances, they are even fewer; and having regard to the nature of his duties, he was not able to visit even places which had passed through grave crises. The Deputy Commissioner of Bannu had to take very high handed measures regarding group of villages known as the Mohmand Khel and other villages in consequence of a series of raids and kidnappings which took place in Bannu city and cantonment. He therefore made up his mind 'to round up the Tract' and started operations with the aid of the Military. All the males, men, and even boys, were called out of their houses and placed under guard and the Military were made to march through these villages inhabited by women only and the whole tract was surrounded by Cavalry. Some houses were burnt and crops were blighted. Nearly 2,000 villagers were taken and some witnesses complain there were reprehensible misdoings by the Military. The action of the Deputy Commissioner might to a certain extent have been justified because of circumstances at the time. These things took place in British districts. Were there a Commissioner of a Division we expect he would have gone to the spot and made enquiries of people most of whom must have been innocent and would have cheered them up with some encouraging words and given them some compensation—whereas now the officer

we do have, the Chief Commissioner, admits he has not yet gone to the spot.

To take another case, on account of depredations of raiders, the whole village of Gomal had to be deserted by the people since all their houses and shops had been destroyed and reduced to ashes. The whole Hindu population left the place for fear. The Assistant Commissioner issued an order to the Hindus under threat of imprisonment and forfeiture of the recognisance of Rs. 500 he took from each of them to reconstruct their demolished houses and shops within one week. In the first place, an order impossible of compliance and in the second place unjust in its exemplary severity and that concerning a people who had so terribly suffered but a little before. The Chief Commissioner here again has not as yet visited the spot—*vide* pages 872-873, Volume I. There are unhappy occasions when people have to suffer. The visit of a high official as the Commissioner of a division would act as a charm to the distressed population. The previous sanction of the Chief Commissioner had not been obtained for those orders issued in the Hazara district forbidding on penalty of expulsion to the attendance of people at the Congress. The Revenue Commissioner's position is not that of an independent agent as that of a Commissioner of a division would be and he has far too many departments to supervise.

(viii) Reference has also been made to the annual migration of Powindahs, and difficulties in administering the Arms Act and such other relatively minor matters. They merit no special answer.

(ix) It is further stated that elements of unrest which exist in India will steal across the Indus and thereby incite to danger the already fanatical Trans-frontier area. The appointment of this Committee and its visit have shown clearly there has been too much suppression of expression of legitimate grievances to many of the people of the Province stated, were the Committee to do nothing further, and had no recommendations whatever to offer but left things *status quo*, still the Province will be content with them inasmuch as they had an opportunity to ventilate their pent-up feelings. Indeed, the very fact of making proposals of a grant of a local Council, and other full-fledged reforms by my colleagues is strong evidence that this ground of unrest is not considered of much consequence. Finally, it has been urged the Chief Commissioner as Agent to the Governor General will suffer in his dignity and status with the trans-border tribe if the districts were separated from his charge. There may perhaps be some force in this. In fact, this is one of the two grounds urged by Rai Bahadur Lehna Singh—the other being that separation will obstruct the policy of occupation of the trans-border territory. He does not rely on any possibility of conflict between two independent officers as other officials state—if the policy is that of occupation, it is better to separate the districts. As I have already stated, occupation, whatever its actual form, is inevitable. It may not be irrelevant to mention here that the only Indian political official examined before us, Khan Sahib Abdul Samad Khan, believes in the Political Agent being left independent, that otherwise the tribes will feel themselves slighted—page 50, Volume II. Were that so, I do not see why if the Governor General's Agent is left in sole independent charge of the trans-border area, he should suffer in status. True, his scope for patronage will be narrowed. But is that ground to be seriously considered when a question so vital awaits settlement? I may remark, in passing, that while every other official examined advocates occupation as the only effective solution, this gentleman is dead against it, and believes that it is only so long as there is peace with Afghanistan, and so long as we do not interfere with the border tribes, that we can have a quiet border. *Vide* page 47, Volume II.

This is important to be remembered in connection with the question already adverted to: *viz.*, should our policy be to maintain the districts in an Afghanised condition, or to help them be Indianised?

39. I have now dealt with almost all the arguments, *pro* and *con*, on the questions involved in the first and second issues referred to this Committee from the point of view of the North-West Frontier Province and districts. I should have been most happy to have advocated internal reforms in the way suggested by my colleagues but for these factors which weigh so very strongly. The policy of isolation of the Pathan will be perpetuated and his alienation from India and her Moslems will be complete. Secondly, there is the risk in giving wide powers on the spot coupled with an introduction of a wide electoral system *ad hoc* to a province 'where the conditions are very electric and you are face to face with serious dangers',—*vide* Sir John Maffey's evidence, page 152, Volume I. Thirdly, it will be 'too expensive'—*vide* Sir John Maffey's evidence, page 152 of Vol. II. The dangers will not be nearly so great when the members to be elected have to play their part at a distant Council like that of the Punjab or the Legislative Assembly and in company of a larger body of outsiders.

Some of the official witnesses are prepared to advocate partial amalgamation with the Punjab so as to save expenditure. My colleagues also were prepared almost down to the last stage of the deliberations to such partial amalgamation. Colonel James was prepared to agree unhesitatingly that amalgamation will be beneficial in the following departments:—

1. Education.
2. Medical.
3. Irrigation.
4. The Jail.
5. Police.

The two educational officers examined support unhesitatingly again the amalgamation and as it is, the department is over-manned. The Police officers are not averse to their department going over and one of them strongly advocates it. Major Brierley favours amalgamation of the Medical. My colleagues propose that a substantial portion of the Civil services should be recruited from that of the Punjab for work in the districts. They also advocate a free in-flow and cut-flow of officers from, and into, the Punjab. If these half-measures are desirable in themselves both on account of national economy and of administrative efficiency, why not the full measures?

40. There is one question more to be dealt with here and that is the Punjab Consideration of the Punjab point of view. point of view.

I am not at all sure whether it was necessary to take evidence from the Punjab witnesses in connection with the questions referred to this Committee. The wishes neither of the Government of the Punjab nor of the people of the Punjab were either consulted or conformed to when the province was separated and formed in 1901—*vide* Sir Mackworth Young's memorandum in the scheme papers. It is entirely a matter for the Secretary of State and the Government of India to decide how provinces should be formed and re-formed. When Delhi was separated, the Punjab Government was not consulted. When the partition of Bengal was reversed the Government of Bengal was not consulted. However in taking evidence from the Punjab witnesses the Committee confined itself to the question how far the Punjab would either profit or suffer by the re-amalgamation of the districts with it. It cannot be stated that there is any advantage to the Punjab by any re-amalgamation. The only point requiring consideration is whether there are any disadvantages arising therefrom and if so whether they are so great as to debar this Committee from recommending an amalgamation if that was thought necessary otherwise. Sir John Maynard has given evidence for the Punjab Government.

The official view. He repeats the official view that it is quite impossible to separate the administration of the Settled Districts from the management of the tribes, which view is based mainly upon the fact that many tribes live astride the Frontier and in a measure, also on the consideration that the internal administration is to an enormous extent dependent upon the arrangement with the tribes, and that the Punjab Government

cannot take the one without the other. This is a question of opinion and it is for the Government of India to decide. His next objection was the difficulty which might be created on the question of the composition of the Legislative Council of the Punjab with reference to the Hindu-Muhammadan proportions. This is a question which more concerns the people of the districts as to how the additional seats to be allotted to those districts are to be divided between the various communities there. The Muhammadan communities of the Punjab cannot be affected as their proportional strength will in any event increase. The Hindus and Sikhs of the Punjab who alone have a legitimate ground of complaint have no objection. The next difficulty mentioned by him is the financial question which must be faced but it is not an insuperable difficulty because in any event it will be a matter of adjustment between the Central Government and the Punjab Government. The Punjab should not suffer financially. The next point taken was that that will be an addition of new and difficult work to the Punjab Government. This requires critical examination. When one Lieutenant-Governor was carrying on till recently the administration with Delhi and the North-West Frontier Province added, we have now a Governor with two Councillors and two Ministers to carry on the government of the province *minus* Delhi and the North-West Frontier Province. Further, the proposal herein made is not to transfer the whole responsibility including the trans-border one, as Sir John Maynard apprehended it would be but merely the district administration with the attendant trans-border work. The Punjab Government has already got border work in the Dera Ghazi Khan district and therefore it will be no new work. On the whole therefore I do not see any serious obstacle in the way of the Punjab Government shouldering the work.

As regards the non-official view, the evidence before the Committee shows that

The non-official view.

the Hindus and the Sikhs of the Punjab who stand to suffer by the reduction of their proportionate strength in the Council by the amalgamation of these districts have no objection, while the Muhammadans who object—do so not so much from their point of view but from the point of view of the Muhammadans of the North-West Frontier district. I ignore the decision in the Punjab Council as they have undertaken to decide questions which have been referred to this Committee for advice, and the discussion in the Council shows it has taken a peculiarly communal turn, apparently due to strained relations between the two communities in the Punjab just at present which it is to be hoped are only a passing phase.

41. My answer therefore to the first term of reference is that it is expedient to separate the administered districts

Answers to the terms of reference.

and so much of the trans-border control as is now in the hands of the Deputy Commissioner of each district respectively from the political control of the adjoining tracts now in charge of the Political Agents.

My answer to the second term of reference is that it is expedient also to re-amalgamate the districts so separated with the Punjab Province. Then with the adjoining area of the Punjab as may be conveniently added being formed into a Commissioner's division, the present Revenue Commissioner may be made the Commissioner and all correspondence with the Punjab Government involving external relations to be communicated also to the Governor General's Agent for the Political Tracts, the latter being at liberty to advise the Punjab Government and the Commissioner of the Division on such matters.

On the 3rd term of reference clause (a) almost every one of the witnesses who state that separation is not expedient also say that the whole province including the districts and the Tracts should be directly under the Government of India, officials and non-officials agreeing on the point. My answer also is that the Government of India should retain the whole province if separation is not effected. My answer to clause (b) therefore will be to constitute a local Government with a Legislative Council for the five administered districts is incompatible with the former and the Central Legislature should retain such control and powers as may be necessary or desirable for assisting the Government of India, the districts being given effective representation in the Central Legislature. I would allot at least six seats in the Assembly—5 for general election and 1 for nomination and would allow 2 seats for the Council of State, 1 for election and 1 for nomination.

On the third term of reference as it stands no other questions or suggestions for internal reforms arise and if required I am prepared to make suggestions.

The fourth term of reference—judicial amalgamation.

42. The fourth term of reference now remains to be considered.

As regards the fourth question, *viz.*, if the province is retained under the Government of India, whether it is expedient to transfer the control of the judicial administration to the High Court of the Punjab, I propose to deal with it very shortly. The matter was fully threshed out in the Legislative Assembly when the following motion was adopted on the 21st September 1921, Appendix B, page 2. "That this Assembly recommends to the Governor General in Council that the powers of control and superintendence over the judicial administration in the North-West Frontier Province now vested in the Judicial Commissioner and the Chief Commissioner of that province, and all jurisdiction, original, appellate, or revisional now vested in them and all powers and authority in relation to the administration of justice including the power to make rules for regulating the practice of the courts, and to authorise legal practitioners to appear and practise in such courts, be transferred to the High Court of the Punjab, and that the necessary legislation be undertaken to invest the High Court of the Punjab with the same jurisdiction, powers and authority in the five administered districts of the North-West Frontier Province as are now exercisable by that court in the territories now vested in the Government of the Punjab and the Delhi Province." The defects in the judicial system have been pointed out time and again in the Annual Reports on the administration of civil and criminal justice and copious extracts will be found in the annexures to this report. I will only refer to one here. In the Civil Justice Report of 1920 we find the Judicial Commissioner remarking as follows:—"Many courts seem to have fallen into a state of lethargy and the efforts to awaken them appear to be unavailing. Frequent inspections have little or no results and the same defects are found to occur with unfailing regularity. In many courts, it is doubtful whether inspection notes are ever read at all. The working of many of the courts has been hampered by constant changes of presiding officers who in some cases wilfully neglected their duty with the knowledge that their tenure was to be short. Another adverse factor has been the mediocrity or inexperience of some of the District Judges", etc., etc. This state of things has been going on all along as will be found from the extracts from reports year after year. What is this due to? So far as we can see it is due to faulty recruitment and the want of supervision of the administration of justice both civil and criminal by an independent high judiciary. The tenderness which the executive Government of this Province shows "for our local notables" not only in the matter of conferring privileges and rank on them as "the natural leaders of society" but also in the giving of appointments in the judicial service without insisting on proper educational qualifications has been one of the main causes of the present state of things. This is so far as the Provincial Service is concerned. As regards the Political Service, officers of the Political Department are frequently chosen to fill up judicial posts without any judicial experience. Almost all the witnesses who have appeared before the Committee have complained bitterly that justice is not administered properly. That the fear that if educational qualifications are insisted on outsiders will swamp the service is not well-founded has been shown already, from the fact that during the Punjab days they had more than a fair share in the appointments in the Provincial Service. The Chief Commissioner in his note, dated the 11th of February 1922, says this: "In the people, in whose interest the judicial machinery exists, I see no signs of a desire for amalgamation either judicial or otherwise." Speaking in the Assembly on the 23rd of February 1922, eleven days later, our colleague, Chaudhry Shahab Uddin, said this: "there is one thing which I will certainly say without fear of contradiction that the judicial separation of that province (*viz.*, North-West Frontier Province) from the Punjab was a retrograde step and I regard it still as a very retrograde step and a blot upon the administration; because the province which had been under regular judicial administration for 70 years was cut off. I went there in April last with Sir Godfrey Fell. Lawyers, very many, not all, of that place approached me and I also tried to fathom the feelings of laymen as to whether they wanted the judicial administration to be assimilated with that of the Punjab and I found that they were very anxious." That there has been a great deal of discontent with the judicial administration is made clear from the questions put in the

late Imperial Council by Messrs. Sachchidananda Sinha, and Surendra Nath Banerjee and in the new Legislatures by the debates raised by Dr. Nand Lal, Mr. Munshi Ishwar Saran, and Sir P. S. Sivaswamy Iyer. The bar everywhere advocated judicial re-amalgamation, unanimously till recently and only with a few exceptions after the idea of appointing one or two local Indian additional Judicial Commissioners began to be talked of. For, in the note referred to, the Chief Commissioner says: "I consider that an addition of one or possibly two, more judges to the Judicial Commissioner's Court will be a welcome reform"; and that this addition is to be from the local elements has been recognised by the Chief Commissioner and the Judicial Commissioner in their evidence. This has raised hopes in some quarters for advancement. But if we compare the figures of pending cases as on the first of January 1922 with the number of disposals by the Judicial Commissioner for a series of years, absolutely no case exists for adding to the strength of the Judicial Commissioner's Court, *vide* Appendix No. XI, page 41, Volume III, which shows that the pending arrears are much less than the average disposals. Any addition can only be to satisfy Indian sentiment. The finances of the country cannot be sacrificed for sentimental gratification of this sort. There, certainly, can be no excuse for not insisting on a high standard of efficiency in the case of District Judges, Sub-Judges and Munsiffs whatever may be said of those executive officers who have to perform judicial functions also. Many Pathan witnesses have admitted that judicial posts must all go by competition according to merit and qualification and that it is the mismanagement of the judiciary that brings the trouble and some of them are not afraid that they will hold their own in competition with outsiders even if a high educational standard is insisted upon. Sir Abdul Quayum says at page 5, Volume I "Fix a rule. No selection. The judicial posts must all go by competition according to merit and qualification and that is the more important of all." I do not think I need give other extracts on this point to support this evidence. Mr. Kealy, the officiating Resident at Gwalior, in his memorandum sent to the Committee, Appendix No. 30, Volume III, says at page 92 "there is a general discontent with the inefficiency of the present judicial administration, partly due to the feeling that judicial departments are too much under the influence of the executive and that the Judicial Commissioner himself is not so independent as the High Court or a Judicial Commissioner in other provinces; because he still depends to some extent on the Chief Commissioner for his prospects and promotion in the Political Department and because though the post is nominally in the gift of the Government of India, it is in practice generally filled by a nominee of the Chief Commissioner" and, at page 93 he says "on looking at the roll of Judicial Commissioners since the Province started could it be honestly denied that some of them had not the experience and knowledge of law which is demanded of all Judicial Commissioners or High Court Judges elsewhere." Coming as they do from a person who has occupied responsible positions in the Frontier Province, these words are significant. The advantages of judicial amalgamation with the Punjab and bringing the administration of justice under the control of a Chartered High Court cannot be overstated and they are self-evident to one like myself belonging to the legal profession. Now what are the disadvantages? It is said the High Court at Lahore is a distant place and will be ruinously costly to a poor litigant. If people in Dera Ghazi Khan district could go to the Lahore High Court there is much less difficulty for people in these districts; and till last year, the people were forced to go to Nathia Gali, a more inaccessible place and even now they have to go there to get access to the Revenue Commissioner and Chief Commissioner. The advantages so outweigh this suggested difficulty that I am not prepared to attach much importance to it. As regards any increased cost to the administration it has been ascertained that the difference will not be much either way. Certainly, there will have to be an Additional Judge in the Punjab High Court and even if a second Additional Judge were necessary there, the cost could be shared between the Punjab and the North-West Frontier Province because Punjab itself required addition on its own account. The addition of another Judicial Commissioner to this province will not be an adequate remedy as he will have to be chosen by the Chief Commissioner and his decisions and dicta will not command the same respect or weight as those of Judges of His Majesty's High Court. The law has remained stagnant in this province ever since its formation. The ancient and long ago repealed provision giving power to a court of criminal appeals to enhance the sentence in appeal still remains on the statute book of this Province.

Remarks of Judicial Commissioners year after year go unnoticed. The Punjab Pre-emption Act which was copied for this Province, though it was amended for the Punjab in 1913, still remains here as it was, the excuse being pre-occupation with such engrossing affairs as the troubles created by the War. Undue restrictions as to the admission of pleaders existed down to only last year and the Judicial Commissioner, we have seen, passed executive orders disturbing the pleaders' established place of business, orders which cannot be justified by law or rules having the force of law and which the present Judicial Commissioner could not justify. The control of the Executive over the Judiciary must disappear and that can only happen if the High Court of the Punjab is entrusted with the supervision of the administration of justice here. They will give effective advice both in the selection and transfer of judicial officers and also in keeping the courts alive to their duties. Mr. Walker, as Registrar of the High Court, on behalf of the Hon'ble Judges of the Punjab High Court has told the Committee that the North-West Frontier Province will not suffer by amalgamation in the matter of recruitment to the services as both communal and district interests are safeguarded by the procedure adopted by the High Court in the Punjab. Moreover, recruitment to judicial offices should not mainly depend on family connections or on population basis as was attempted to be urged during the enquiry. The Delhi Province is judicially under the Punjab High Court. Assam is judicially under the Bengal High Court and no difficulty has been experienced in these cases. I have no hesitation therefore in answering the first part of the fourth question in the affirmative. The local bar, it should be stated in justice to them, stands to lose by this amalgamation rather than gain as has been improperly suggested by some officials and witnesses. The appellate and revisional practice will go out of their hands to the members of the Lahore Bar—though one or two of these men might go to Lahore to settle there—and in important cases in the districts, members of the Lahore Bar will also be called in. The advice given by the bar in this matter is absolutely disinterested and it only shows the tendency of the official mind in the North-West Frontier Province when it descends to attribute motives to them. This I noticed in almost many responsible officials who appeared before the Committee.

43. The following special features in the Laws and Regulations in force in the North-West Frontier Province may be here noted.
 Defects in the existing Laws and regulations and their use and abuse examined.

Law and Justice Regulation, 1901.

By section 6, clause 1, sub-clause (c), all references to the High Court or to Chief Court of the Punjab are to be construed as referring to the Judicial Commissioner save, as regards proceedings against European British subjects or persons jointly charged with European British subjects, and as regards proceedings under the Indian Trustees Act, 1866, the Trustees' and Mortgagees' Powers Act, 1866, the Indian Divorce Act, the Inventions and Designs Act, 1888, or sections 57 to 60 of the Indian Stamp Act of 1899 in respect of which proceedings the Chief Court of the Punjab shall be High Court.

Section 9.—No person is entitled to appear and practise as a legal practitioner in any court unless he has authority from the Judicial Commissioner so to appear and practise, and no practitioner can appear and practise in any Revenue Court unless he is authorised by the Judicial and the Revenue Commissioners. From an order conceding or refusing authority to appear and practise a revision lies to the local Government. The local Government can make rules as to qualifications and conditions about legal practitioners.

As to rules see *Gazette of India*, 1902, Part II, page 5.

Sections 10, 11 and 12.—The rights of European British subjects under the Criminal Procedure Code, 1898, are very jealously safeguarded and saved from the operations of the regulation.

An appellate court has got the power to enhance punishments.

Section 12 confers an unlimited power of transfer irrespective of section 526 of the Code of Criminal Procedure.

Section 13, clause (2).—Any police officer may exercise the power conferred by section 55 of the Criminal Procedure Code on an officer in charge of a police station.

Section 19.—The slaughter of kine and the sale of beef shall not take place except subject to rules made by the local Government.

Section 23.—Similar provision about crossing any stream on a buoy or inflated skin.

Section 46 allows the Judicial Commissioner when sitting as an Original Civil Court to take and record evidence in any manner he may choose by rule and relieves him from the necessity of complying with the provisions of the Civil Procedure Code.

Section 56.—The jurisdiction of a Subordinate Judge is fixed by the local Government and in the case of a Munsif by the Judicial Commissioner in any manner he thinks fit subject to a maximum of Rs. 1,000.

Frontier Crimes Regulation, 1901.

Section 2, clause (a) defines Council of Elders.

Section 2, clause (b).—Deputy Commissioner includes any Magistrate of the First Class appointed by the Deputy Commissioner to exercise any of the functions mentioned in the first part of the first schedule, the chief among these powers being the power to make orders of reference to the Council of Elders, to nominate and appoint members of the Council and to hear and dispose of objections to the nomination of members and the power to take security under section 40.

Chapter III deals with the Councils of Elders. There are two sections under which references could be made.

Section 8 deals with civil references. Where the Deputy Commissioner is satisfied, from a Police report or other information that a dispute exists which is likely to cause blood feud, murder, mischief or a breach of the peace, or in which either or any of the parties belongs to a frontier tribe, he may refer the dispute to a Council of Elders, if he thinks that settlement by the Council will tend to prevent the consequences anticipated and if a suit is not pending in respect of a dispute on receipt of the finding of the Council the Deputy Commissioner may pass a decree in accordance with the finding of the Council or of not less than $\frac{3}{4}$ of the members thereof. The decree is final and no Civil Court can take cognizance of any claim dealt with thereby.

Section 11 deals with Criminal references which are authorised. Where in the opinion of the Commissioner or the Deputy Commissioner, it is inexpedient that the guilt or innocence of any persons accused of any offence should be tried by a court of any of the classes mentioned in section 6 of the Criminal Procedure Code, the accused has a right to object to the nomination of any member of the Council. On receipt of the finding of the Council the Commissioner may acquit or discharge or in accordance with the finding on any matter of fact of the Council or of not less than $\frac{3}{4}$ of the members thereof convict the accused person.

Section 12.—Where the Deputy Commissioner convicts he may pass a sentence of fine. In the case of offences mentioned in the second schedule, he may sentence the person in lieu of or in addition to fine order imprisonment up to seven years or whipping and imprisonment up to five years or transportation up to seven years. If the offence is punishable with transportation or imprisonment exceeding seven years he may, subject to the confirmation of the Commissioner, impose a sentence of transportation or imprisonment up to 14 years, provided that the sentence shall not exceed the maximum prescribed in the Penal Code; provided also that a sentence of transportation shall not be passed for an offence which is not punishable with transportation or imprisonment for a term which may extend to seven years or more.

Section 14.—The power of reference under section 11 may be exercised by the Commissioner or Deputy Commissioner in cases committed to the court of session at any time before the trial before that court has commenced and in cases pending before any court inferior to the court of session at any time before the conviction or acquittal.

Section 15.—In any trial before a court of session the Commissioner or Deputy Commissioner may instruct the Public Prosecutor to withdraw the prosecution at

any time before conviction or acquittal in order that the case may be referred to a Council of Elders.

Section 18.—Where a Council of Elders to which a reference has been made under the Regulation makes any recommendation to which effect might be given if it were a finding on a matter or question referred to the Council under the Regulation, the Deputy Commissioner may, if the recommendation affects a person mentioned in the order of reference and is relevant to the matter or question actually referred deal with the recommendation or any part of it as if it were a finding under section 8 or section 11.

This is an extraordinary provision. Even if the finding relates to a matter or question not specifically referred to the Council, but only relevant thereto, it is intended to be given effect to.

Section 19.—Where the Deputy Commissioner under Chapter III imposes a sentence of fine exceeding Rs. 200 or imprisonment for a term exceeding three months, or transportation, he must make a record of the facts of the case of the offence committed and of his reasons for passing the sentence. Evidently in other cases he is relieved even of this duty.

Chapter IV dealing with Penalties is interesting.

If any frontier tribe or member thereof acts in an unfriendly manner towards the British Government or persons residing in British India, the Deputy Commissioner with the previous sanction of the Commissioner may direct the seizure of all or any of the members of the tribe and of all or any property belonging to them, the detention in safe custody of persons or property so seized; the confiscation of such property; the prohibition of members of the tribe from access to British India, and the prohibition of all intercourse between persons in British India with such tribes.

Section 22 authorises a fine on a whole village for connivance at a crime, for failure to render assistance to discover offenders, etc.

Section 29.—If a person is found carrying arms so as to afford ground for suspicion that he intends to use them for an unlawful purpose and that he is taking precautions to elude observation or evade arrest or is found after sunset and before sunrise within the limits of any military camp, or cantonment or municipality, he shall be punishable with imprisonment for a term which may extend to five years or fine or both.

Section 30.—A married woman guilty of adultery is punishable with imprisonment for a term which may extend to five years.

Chapter V.—Under section 31, the Commissioner may prohibit the erection of a new village, fort or towers within five miles of the frontier.

Section 36.—If in the opinion of the Deputy Commissioner a person is a dangerous fanatic, or belongs to a frontier tribe and has no ostensible means of subsistence, or has a blood feud or has occasioned cause of quarrel likely to lead to bloodshed the Deputy Commissioner may require him to reside outside the frontier province.

Under section 46 of the Criminal Procedure Code as amended by section 38 of the Regulation, if a Pathan or Baluchi commits or attempts to commit an offence or resists or evades arrest, in such circumstances as to afford reasonable ground for believing that he intends to use arms to effect his purpose and if a hue and cry has been raised against him he may be killed.

Section 40 provides for security and surveillance for the prevention of murder or the dissemination of sedition. An inquiry under section 40 or 41 which deal with taking of security may be conducted out of court provided that opportunity is given to show cause in court why a bond should not be required and of having witnesses examined there.

Chapter VI.—No appeal is allowed or any decree, sentence or act done under this Regulation, but the Commissioner may revise under certain circumstances.

Section 56.—In cases where such a course is in accordance with local tribal custom any amount recoverable under a decree or sentence may, on the recommendation of the Council of Elders, be recovered from the property of the relatives or fellow-tribesmen.

The Frontier Murder Crimes Regulation, 1901,

provides for a special procedure in the case of fanatics committing or attempting to commit murder.

It cannot be disputed that some of these special and peculiar provisions in these laws and regulations are necessary to be preserved for the proper administration of this frontier area. Some of the witnesses who appeared before the Committee have demanded the total repeal of the regulation. It is more the misuse of these regulations that has led to this demand rather than the inherent unsuitability of the law. The power reserved to the Chief Commissioner in the matter of considering or refusing authority to the legal practitioner to appear in the courts of the province must go. And the power of the Judicial Commissioner also should be brought into line with that of the High Courts. The power of the appellate court in criminal appeals to enhance the sentence must also go. And there are other desirable improvements in the Law and Justice Regulation, 1901 which should be made so as to bring it into line with the laws prevailing in the adjoining province of Punjab. The sections in the Frontier Crimes Regulations which require serious notice are sections 8 and 11—15 which have reference to *jirga* both in civil and criminal cases and sections 21 and 22 in Chapter V. It is the application of these sections to cases not apparently intended to be included within their scope and the selection of men who have been appointed to serve on the *jirga* who are described usually as men of straw without any sense of responsibility that has led to universal condemnation which the Committee heard everywhere. A striking instance of the misuse of section 8 of the Frontier Crimes Regulation may here be referred to. Khan Bahadur Mohamed Hussain Khan of Mansehra is apparently a respectable citizen who makes himself generally useful to the authorities. And the Deputy Commissioner of Hazra apparently considered him as a local Khan of standing and importance. Being heavily in debt he applied to the Government for help and was granted permission under some forest rules to sell 300 trees. These trees were sold by public auction and were purchased by one Prithvi Chand of Buffa, a town 10 miles away from Mansehra in the same Tahsil, and he failed to pay the amount within the time limit. The trees were sold again in auction for a less price and Prithvi Chand was held responsible for the deficiency of the price in the resale. It was purely a civil claim which one citizen had against another for ordinary breach of contract which could and should have been enforced in a civil court. On an application made in November 1920, the Deputy Commissioner took the view that it was a claim to be enforced in a civil court. But the Khan Bahadur put in an application to the Deputy Commissioner in May 1921 that Prithvi Chand had not paid him the amount and stated that he cannot claim the amount in civil court without being put to much trouble. He therefore prayed that the case may be taken under section 8 of the Frontier Crimes Regulation and the Deputy Commissioner grants the application stating that section 8 of the regulation correctly applied to this case. "As both the parties are residents of the district in our opinion the case is one which must be decided by custom and not by civil court. Therefore we refer this suit to the *jirga*." The application and the order will be found in the annexure D to this report. Needless to say the *jirga* found for the Khan Bahadur and a decree was passed and confirmed by the Deputy Commissioner. This reference to the *jirga* was against the wishes of the defendant Prithvi Chand. In the original order referring the case to the *jirga* it will be noticed there is no reference to any one of the conditions that are essential for the existence of a dispute which is likely to cause blood feud, murder, mischief or a breach of the peace. Nor is there any reference to any belief that the settlement by the Council will tend to prevent the consequences anticipated. And in the final order confirming the decision of the *jirga* the following sentence occurs in justification of the reference to the *jirga*. "In addition the plaintiff, a local Khan of standing and importance, was incensed at the questionable conduct of this defendant and a breach of the peace was not improbable. The defendant is also of Mansehra Tahsil." That a Khan Bahadur of standing and importance

living in Mansehra would commit a breach of the peace against a defendant living in another town 10 miles away for a civil claim he had against him, was an allegation not made in the petition nor mentioned in the order of reference, but finds a place in the final order confirming the reference to *jirga* as a justification for the application of section 8. The existence of a dispute likely to cause a breach of the peace is one thing and that a breach of the peace was not improbable because the plaintiff was incensed at the conduct of the defendant is a different thing altogether. It surely could not have been the intention of the legislature to apply section 8 to such cases and it is no wonder that people are apt to believe that such action is due to favouritism. And as a result of this decree, the Deputy Commissioner ordered that in case of non-payment the defendant should be confined in political *havalat*. This was on 10th April 1922. This political *havalat*, i.e., detention in custody, a political order, apparently owes its origin to section 21 of the Frontier Crimes Regulation. I cannot find any authority for it. Section 21 cannot apply to such a case. Placing persons in political *havalat* seems to be pretty common as the returns furnished to this Committee illustrate. It is this sort of help which is referred to as one of the benefits accruing to the people of the district arising from the existence of a separate province, as the Khan Bahadur himself admits in his evidence before the Committee. References have also been made in the course of the evidence to cases where persons acquitted by one *jirga* have again been tried by another *jirga* and convicted of the same offence. If the use of these special sections is strictly confined to cases where people actually belonging to the frontier tribes are dealt with as accused persons or in civil cases where both parties belong to the frontier tribe, the complaint against the regulations will not be so insistent. And when wholesale punishment is sought to be inflicted on a village or community in the British districts under sections 21 and 22 or the extraordinary powers under section 361 are sought to be exercised the previous sanction of the Chief Commissioner should always be insisted on. Otherwise there will be no safety to the people.

I am not for the total abolition of the Frontier Crimes Regulation but I strongly advise its restricted application and use. References to *jirga* should be carefully scrutinised and should be subjected to the supervision of a purely judicial body and the decision of the *jirgas* to the revisional authority and supervision of purely high judicial authority. The nominations to the *jirga* should be made from a list or panel to be settled by District and Divisional Judges and not by a Deputy Commissioner. No British subject in the Frontier District should be forced to submit to this special procedure. The question of making necessary amendments must be examined by a committee appointed for this purpose and I do not propose therefore to deal with this any further. There are other reforms which are also essential and foremost amongst them has to be mentioned the necessity of having a chain of border villages connected by good road communications with people well trained in the use of arms and organized for defence purposes. This is essential whether the districts are amalgamated with the Punjab or kept as a separate province.

44. Now I wish to offer a few remarks on the report of the Majority of the Committee which reached me on 17th October at Madras long after I had written my previous paragraphs mostly in Simla last month. At the time I wrote the previous paragraphs I had only a short draft report and any reference to the views of my colleagues in the previous paragraphs should be read as referring to the contents of that draft report.

At the outset I cannot but deprecate and I do so with the greatest regret the reference made by the majority to their dissentient "Hindu" colleagues. In paragraph 22 of their report, "is it a mere coincidence," they wonder "that our Committee should have split up into a minority from the South of India and into a majority who lived or have served in the North;" and they claim exclusive credit for their intimate knowledge of the "grimness of the frontier" and various other virtues which may be readily admitted. I am also tempted to express my wonder in certain other directions but shall desist from following their example. There is a faint suggestion in paragraph 37 and in other places that the attitude on this question of two of the dissentient members of the Committee is also due to

the fact that they are Hindus. I entirely repudiate the suggestion as unworthy and unfounded and what little cleavage there is now on the frontier between the Hindu and the Muslim arose after the visit of this Committee when some of its members persisted in putting questions on the subject. Hindus and Muhammadans of the province almost up to the 3rd week of May had joined together in public meetings and passed resolutions advocating separation and amalgamation with the Punjab. At most of the public meetings Muhammadans presided. The question of this cleavage gained some importance in the province in the course of the enquiry by pointed stress being laid upon two aspects of the questions by some official witnesses and by some of the members of the Committee in their questions. The first two witnesses questioned at Peshawar were one leading Muhammadan gentleman and another leading Hindu gentleman. Both of them argued their different points of view without any reference to this Hindu-Muhammadan question. The 3rd witness was a Muhammadan gentleman who also did not make any reference to this question. The next witness was a Hindu pleader. To him my friend Mr. Samarth put the suggested difficulty from the point of view of the Punjab, namely a large Muhammadan electorate will be added by the amalgamation and the Hindu percentage of this amalgamated province will become much smaller than it is in the Punjab. Lala Chiranjit Lal who had apparently given considerable thought to the questions under reference had to answer at first he did not quite understand. My friend Mr. Samarth's point had nothing to do with any difference in the frontier districts but a possible point of view of the Hindus of the Punjab where possibly this question is looming large, *vide* Volume I, page 53. The next witness was Khan Bahadur Sadhudin Khan, a very prominent and respected Vakil at Peshawar, who was examined on behalf of the Bar. To him also the same difficulty from the point of view of the Hindus of the Punjab was presented. To him also such a presentation came as a surprise and he pointed out that the Hindu gentleman had not objected on that ground, *vide* Volume I, pages 65 and 66. After two policemen had been examined, Lala Muthra Dass, another pleader, was examined. To him the question began suggesting that open competition for recruitment to the services would result in the Hindus dominating. My friend Mr. Chowdhry Shahabud-Din put him the question "supposing the result of open competition is that 95 per cent. of the Mussalman population of the province is put entirely under the Hindu judiciary of this province, do you think that that will be an ideal state of things?" And the witness protested it is not fair to ask these sectarian questions. The President ruled out the question. When Sir John Miffey was examined, he referred to the fact that in 1902 all the Munsifs of the province were B.As. and now there were only two B.As. and that the educational status of others was not as high as it should be. He added the following remarks "But the interesting point to notice is that in the *Tribune* list all the Munsiffs were Hindus whereas now there is a very large proportion of Muhammadans and I do not think anybody could say that this is not a move in the right direction," *vide* page 126, Volume I. When Lala Baghat Ram, the next witness representing the Hindu Sabha, appeared to be examined, I tried to get him to meet the point raised by my friend Mr. Samarth, to meet the difficulty from the Punjab Hindu point of view. He belittled that difficulty and thought there was very little in it, *vide* Volume I, page 174. To him my friend Mr. Chowdhry Shahab-ud-Din put the question "Then may I take it as your opinion that the Muhammadans who are 95 per cent. of the population in this province are going to give up their entity and going to accept representation on non-communal basis." The President allowed the question to be gone into very shortly and questions were put to the witness. The witness advocated election on non-communal basis, *vide* pages 175-176, Volume I. To the next witness Khan Bahadur Abdul Gaffur Khan, the question was put "even if a competition test were introduced you surely advocate strongly the protection of the interests of the nobility and other influential people of your province?" The witness answered "certainly." And to the further question, "if open competition were introduced don't you think 90 per cent. of the posts of the judiciary and executive would in course of time be occupied by Hindu gentlemen and if this province were re-amalgamated with the Punjab, don't you think that the Muhammadans of this province would lose their separate existence and identity. The Hindus will gain and the Muhammadans will lose hopelessly in the re-amalgamation." To such leading questions the answer was "of course", Volume I, page 192. My friend Mr. Chowdhry Shahab-ud-Din tried similar questions with Major Muhammad

Akbar Khan. To the question "I believe you know that the Muhammadans and Hindus respectively form 93 and 6 per cent. of the population" would you have a mixed electorate or a separate electorate, the answer was "I would have a mixed electorate. I am not of sectarian views". (Page 209 of Volume I.) The witness refused to recognise any difference between the Indians and said "we are all Indians. I don't know the minority or majority at all. I say any man should by his own exertions rise to whatever position he can. He would not advocate communal representation and he stated it was not only his own personal opinion but most of the people are of that opinion", *vide* page 216, Volume I. Mr. Pipon tried to make out in his memorandum that the opposition to a local Legislative Council came from the Hindu minority. Khan Sahib Sadhudin Khan, the leading Vakil already referred to, had already given evidence that on account of financial difficulties and that on account of the fact that cliques are likely to be formed in a small province, the reformed council would not tend to good administration and their development would not be satisfactory. And his deliberate opinion was that the masses will feel glad over re-amalgamation. Mr. Pipon cautions the committee against speaking of Mussalman view as a whole in this province because they are of such widely different classes. To Mr. Jala Radhakrishnan my friend Mr. Chowdhry Shahab-ud-Din put the question "Is it not a fact that if a Legislative Council is given to this province the Mussalmans who will be proportionately in the majority in the Council and there would only be a small number of Hindus", the witness answered "The Hindus will be in the minority but so far as this province is concerned they have greater voice than when they are merged in the Punjab." To him the further question was put by my friend. "Hindus are educationally better than Mussalmans in this province. In an open competition suppose they never come up to Hindus, would you like 90 or 95 per cent. of the Hindus holding executive and judicial offices to rule a province which possesses 90 or 93 per cent. Mussalman population", the witness answered 'no'. Arbab Dost Muhammad Khan made the statement that the Hindus and Muhammadans in the villages are behaving towards each other like brothers, *vide* Volume I, page 287. To Muffti Muhammad Yakub Khan, an enlightened member of the provincial service Mr. Chowdhry Shahab-ud-Din put this question 'You say you don't want to make any distinction between the Hindus and Muhammadans. It is a very good idea for the good of India but what would you say to this? Suppose by open competition the Hindus who are admittedly superior to the Muhammadans in education were to usurp all the high executive and judicial posts, how would the Mussalmans then feel', the witness answered he would reserve a certain number of appointments for selection as distinct from those reserved for competitive examination, *vide* page 301, Volume I. Kazi Mir Ahmad Khan, a gentleman holding a very high non-official position in Peshawar and a Muhammadan representative in the Municipal Committee of Peshawar and a Pathan, was emphatic that a local Legislative Council would be worse than useless. To him my friend Mr. Chowdhry Shahab-ud-Din again put in the following questions which are instructive, *vide* Volume I, pages 339 and 340:—

Q.—On the Municipal Committee at Peshawar the number of Hindu and Muhammadan members is equal?

A.—I understand so.

Q.—Is it by arrangement?

A.—That is the order of the Government; I don't know how it is.

Q.—Do you know that the number of Mussalmans in Peshawar city is more than six times the number of Hindus?

A.—I am not quite sure of the ratio, but I know that there is a larger number of Mussalmans.

Q.—And even Hindus and Sikhs taken together do not come up to more than one-fourth of the Mussalmans?

A.—Probably so.

Q.—The Mussalmans are perfectly contented with half the seats they have on the Municipality?

A.—I think so.

Q.—I think it is out of your good relations with the Hindus that you don't care to get more than you have got ; is it not so ?

A.—There may be more than one reason. I think it is a fact that they are agreed. It is a good thing.

Q.—Though the Mussalmans are more than six times in numbers, they are contented with half the seats. Will you not expect the same treatment from Hindus towards your own co-religionists ?

A.—I may expect more good from the Hindus, but I cannot say what I should expect or should not expect. I do not quite understand the question." This process of education thus went on.

In the evidence I have discussed in the preceding paragraphs I have referred mostly to Muhammadan evidence and it is utterly futile to suggest that the residents of this province, the bulk of them, view the questions before the Committee as any question of Hindu or Muhammadan. As I have shown above, the question is being raised from the Punjab not from within the province. No doubt a few interested persons who hope to profit by getting appointments for themselves or their relations, wish to give that complexion to it. The people who would suffer from the bad administration of the districts, the bulk of them, are Muhammadans. It is in their interests the reforms of re-amalgamation should be advocated. It must be a biased mind to see bias in others.

Much as I respect the views of my colleagues on the Committee and with all the desire to agree with them I could not even with the "rosiest coloured spectacles"—to borrow the language of my colleagues—disguise the facts that three of them had actually convinced and committed themselves long before the enquiry commenced that the answer to the most important question before this Committee should be in the negative and that one if not two of the members were part and parcel of the machinery of the administration which was under examination by this Committee. Both the dissentient members have the satisfaction that they had to approach the consideration of this question, true in comparative ignorance, but with an anxious and open mind and we did not accept seats on the Committee and register our preconceived opinions however sound they may be. And I may further add that I have not ignored the documentary and other evidence made available to the Committee and have dealt with the evidence in detail above.

Referring to paragraph 4 of the report I do not wish to lay any claim to any share in the credit for patience in listening to the views of the local Bar. I listened to them with respect and pleasure everywhere and was largely instructed by their evidence. Nor do I agree that any non-co-operator "aired his views" to us. One or two non-co-operators alone appeared to give their evidence and they behaved with remarkable self-restraint and scrupulously avoided personal grievances although some difficulties had been placed in the way of their giving evidence before the Committee. I do not agree as I have already indicated that there are two main currents "Hindus and towns" as opposed to "Mussalmans and villages". Extracts of the evidence given above and a comparison of the statistics as to public meetings held in the province and petitions received by the Committee will show that this estimate by my colleagues of the opinion in the province as to amalgamation is not a correct one. Paragraph 9, page 10, of the report do not in my opinion give a correct version of the problem as it existed up to 1901. As I read the prior correspondence published in the blue book, the question was not whether it was possible for the Government of India to secure the conduct of external affairs of the frontier without dismemberment of the settled districts that only arose on Lord Curzon's proposal. It was then the Secretary of State for the first time in his despatch of December 1900 drew the attention of the Government of India to the proposed dismemberment and FOR ITS BEING CAREFULLY EXAMINED. Till then I do not find any trace of the question of the necessity for dismemberment being considered by any one. With reference to Sir Mackworth Young's remarks on the question of the inseparability which my colleagues adopt, they fail to note that Sir Mackworth Young apparently changed that opinion in his later minute, dated 15th July 1901, *vide* page 2, paragraph 5 of the scheme report, which runs as follows: "I am aware that in giving any opinion on the Secretary of State's proposal of 1898 (*viz.*, to place the frontier commissioners *quâ* their political work

under the direct control of the Government of India) I indicated that although I concurred in the reasons which led the Secretary of State and the Government of India to reject the scheme for framing a separate administration of the border districts and trans-border tracts, that scheme was the only method of eliminating the Punjab Government from trans-frontier control. I am not sure I was right in this view. I should not now be prepared to admit that the two solutions of the problem which were then before my mind are the only methods by which the object of the Government of India may be attained. But I am not now called upon, any more than I was in 1898, to elaborate this idea. The point which is now clear to me and which I wish to emphasise is that the transfer of internal administration of the British frontier districts from the Punjab Government constitutes the danger as well as the weakness of the proposals now under consideration". In paragraph 12 my colleagues insist upon a common authority for dealing with the interests of districts and tracts and yet it is difficult to reconcile their proposal to entrust the administration of the districts to a local authority comprised of a Commissioner and an Executive Council and a Minister responsible to a local council, which must be something "live and vigorous". While they object to placing the Chief Commissioner direct under the Government of India for external affairs and under the Government of the Punjab for internal affairs they are willing to place him under the Government of India for external affairs and under "a live and vigorous" local council for internal administration. Is this not very nearly paying lip tribute merely for this frontier "axioms for fundamental canons of frontier management", as my colleagues would term it? As already shown, the present system of management through Agents and Resident is also inconsistent with the so-called axioms. This theory of inseparability has been closely examined in the previous paragraphs and there is nothing new in the report of the majority which calls for any further notice. With a thoroughgoing forward policy, my colleagues admit that the district may be separated from the tracts. I have already shown that a thoroughgoing forward policy is already being pursued slowly but surely and the resolution of the Government of India and of the Secretary of State in the spring of 1920 referred to by Lord Chelmsford in one of his speeches already quoted, is pregnant proof thereof. It is purely a question of time which includes money. My colleagues claim great credit for patience not only with the witnesses that came before them but also with the dissentient members and state in paragraph 19 that it was their desire to carry the two dissenting colleagues along with them into an 'unbiased' examination of the best form of administration for the frontier districts that prevented them from accepting certain conclusions they had reached as final. I do not remember either myself or Mr. Samarth attempting to argue any avenue of escape from the logical conclusion, namely, that given the inseparability of the two parts and the impossibility of entrusting one of them to the Punjab Government, it is impossible to entrust the Punjab Government with the other. At no time had we any doubt in our minds that if inseparability were granted Punjab Government could not come in. All our arguments and suggestions proceeded on the assumption of separability which we believed in. I am thankful to my colleagues for the patient and laborious exploration which I regret we inflicted upon them and thereby compelled them to re-affirm the practical inseparability of "drawing a hard and fast line between the internal and external of even work-a-day matters of the frontier" at least in theory, though in practice they are prepared to ignore it, in their own proposals as shown above. What they object to is "to transfer the administration of districts from the Government of India to any major local government" see end of paragraph 22, but they have no objection to transfer it to a minor local administration. Is it their idea that the minor local administration, viz., the minor local cabinet and Legislative Council, the "live vigorous Legislative Council". As they call it and one where they want to give full scope for the self-determination of the Pathan and the fulfilment of their political aspirations, will not be a reality and that the Chief Commissioner will continue to hold the balance between the divergent interests, between the districts and the tracts in the same way as he does now? If there is going to be true and growing responsible local government "as in the Punjab" with "the essentials of the reforms" enjoyed and to be enjoyed elsewhere, the Chief Commissioner cannot certainly continue to be that common authority on which so much stress is laid: I have already shown that the proposal made by me above

is not entirely new ground. It is not a correct statement my colleagues make in paragraph 20 "that our colleagues broke entirely a new ground." This suggestion was put in the course of the enquiry to one of the official witnesses, my recollection is to Colonel James. It was certainly put to Sir John Meynard later and in fact a plan was asked to be prepared before the evidence closed showing the agency tracts in a different colour from the tract controlled by the Deputy Commissioner and if the suggestion in paragraph 20 is that this idea came in for the first time during the course of the final discussion we having had to abandon every other conceivable avenue of escape, it is absolutely incorrect. On the reasoning adopted in paragraph 21 there is as much reason as for Afghanistan and tracts being also under the same administration. It is not with a view to belittle the importance to be attached to the opinion of the majority that I follow their example of paying a genuine and humble tribute to their ingenuity, patience and skill. I also agree that the issues involved are fraught with consequences to the districts and to India, too vast for me to dare to follow them in seeking "illusory refuge" from the facts as disclosed from the official reports and records in a make-believe local council which is apparently to be under the guiding strings of a chief commissioner though nominally under the Government of India.

With reference to the statement in paragraph 24 as to record of the Frontier Province in its external relations I have already referred to responsible high official and military testimony proving the reverse of what my colleagues assert. The effort of the financial drain on India by this Frontier Province is grossly understated in paragraph 32 of my colleagues' report. Mr. Dutt's figures will have to be examined closely in this connection. While my colleagues recognise that economy must be the guiding principle their recommendations involve additional expenditure and are sure to end in ever increasing expenditure which the province cannot bear.

45. In conclusion, I wish to express my obligation to the President of the Committee for his uniform courtesy and patience under what must have been

Concluding Remarks.
a trying situation to him and the Chief Commissioner Sir John Maffey, North-West Frontier Province, and his Deputy Commissioners for their hospitality, the very careful and well-thought out arrangements they had made for our comforts and for facilitating the work of this Committee. Mr. Bolton, our colleague and secretary, deserves great praise for the extreme care and attention which he has brought to bear in preparing and supplying the materials. I am afraid I had to tax his patience very considerably by asking for all sorts of information which he very readily and promptly furnished. Whatever might be the final result of the labours of this Committee, I wish to place on record my appreciation of the very fine qualities of both head and heart of the Muhammadan-Hindu population of this province; whose vital interests are involved on the decision of the Government of India and the Secretary of State. I have tried to approach the consideration of the question from that stand point and that stand point alone and my emphatic opinion is that a reamalgamation with the Punjab in the way proposed by me will be the best solution of the difficulties which beset them while at the same time all-India interest may not materially suffer. The financial effects of my proposals do not require much consideration. They are bound to result in economy in several directions and for the first few years financial arrangements will have to be settled between the Punjab and the Central Government subject to revision at the end of 10 years.

I regret the length of this report. The evidence before the Committee, both documentary and oral, was very voluminous and had to be referred to in considering the various questions, especially in ascertaining what the public opinion is on certain matters, and may I conclude with an earnest appeal to the Government of India and the Secretary of State for a patient consideration of the matters dealt with herein and in the majority report.

MADRAS ;

T. RANGACHARIAR.

15th October 1922.

ANNEXURE A.

Extracts from the Reports on the administration of Criminal Justice.

1901. Judicial Commissioner's Report :—"The function of the Frontier Crimes Regulation is to supplement and not to usurp the place of the Regular Law. Careful discrimination should be exercised as to the cases for reference to *Jirga* tribunal and the persons to serve thereon. Any tendency on the part of the Police to slur over the investigation in difficult cases without an energetic attempt to elucidate them, treating them as at any rate good enough for the *Jirga* and any tendency on the part of the Magistracy by sending up cases which ought to be tried judicially, for trial under the Frontier Crimes Regulations should be summarily checked. If these considerations be kept in view and systematically acted on, the Frontier Crimes Regulation should be beneficial as a supplement to the ordinary law."

1902. The District Magistrate, Bannu, stated :—"Dacoity is becoming a fashionable crime in this province."

The District Magistrate of Hazara, dealing with Frontier Crimes Regulation, stated :—"There is a considerable increase under all heads of cases referred as compared with figures of last year. I cannot give any satisfactory explanation for this increase....."

1903. The Sessions Judge of Peshawar (paragraph 8) stated :—"I am certain that the increase in murders need not have occurred if the Magistrates and Police had taken prompt measures in cases in which murders were likely. I am led to this conclusion from the Sessions cases that have come before me."

Judicial Commissioner, paragraph 16 :—"The steady fall in the percentage of persons who elected to appeal from 33 in 1901 and 25 in 1902 to 22 in 1903 is a satisfactory feature and indicates that speculative appeals have been checked by the power now vested in District Magistrates to enhance sentences."

Paragraph 17. District Magistrate, Peshawar, wrote :—"Fluctuations in figures as to references to *Jirgas* depend of course on the personal equation of individual officers..... In spite of strict attention, both Magistrates and Police are apt at times to be careless and unthorough in working out cases."

Judicial Commissioner :—"The special procedure provided by Frontier Crimes Regulation should not be applied ordinarily to riot cases ; riot occurs generally in broad day light. Main facts are known to on-lookers and such cases can well be tried by the regular tribunals."

1904. The Chief Commissioner in his review stated :—"It must be remembered that unless adequate inquiry is made, Section 107 of Criminal Procedure Code and Section 41 of Frontier Crimes Regulation alike lend themselves to those in search of a means of vexation or oppression."

District Magistrate, Bannu, states in paragraph 14 :—"In accordance with instructions issued by me, action is now taken under 41 of Frontier Crimes Regulation instead of section 107 of Criminal Procedure Code in all disputes over women and other quarrels affecting families and factions."

1905.—The Chief Commissioner "hopes to see that the proportion of cases dealt with by the regular courts steadily increase and to witness a corresponding diminution in the number of criminal references to Councils of elders."

1906.—The Chief Commissioner "insists on the necessity of a systematic application of the provisions of section 250, Criminal Procedure Code, and award compensation."

Sessions Judge, Derajat Division, wrote (paragraph 2) :—"The fact is that Magistrates habitually neglect to carefully send the complainant's statement under section 202, Criminal Procedure Code, and so fail to gauge the truth of his story. As a rule this important work is delegated to a subordinate clerk."

The Judicial Commissioner stated :—" Constant reiteration or admonition is necessary to impress the importance of this subject on Indian Magistrates as a whole."

1907. *The Judicial Commissioner in paragraph 6* :—" The Sessions Judge, Peshawar, is inclined to attribute the increase of burglaries in the District to laxness of supervision on the part of the Police. The Judicial Commissioner concurs in that view."

Paragraph 7, District Magistrate, Kohat, remarks :—" Facility for escape afforded to offenders by the proximity of the border line affords a strong incentive to intending criminals in Kohat and as long as the present conditions exist it will remain an adverse factor in the Criminal Administration of the Province. The outlaws life offers positive attractions to adventurous spirits of Khuttack ilaqa. Subsistence is easy. They have only to pounce now and again on our unprotected Hindu and hold him up to ransom and those who might arrest are unarmed and unable to attack a body of men armed with rifles. The border military police are few and far between. The Police are weak....."

Paragraph 8, District Magistrate, Bannu :—" It was apparent that widespread alarm has been occasioned amongst the Hindus of the District by the operations of these gangs from Kohat and their recently adopted plan of kidnapping men of means and extorting ransom under threats of murder. Village Hindus are leaving their homes and crowding into Bannu city to such an extent as to raise rents in the city generally and many petitions are presented for special protection."

1908. *The Chief Commissioner states in his review* :—" The number of offences both reported and admitted is the highest on record since the foundation of this province. For this the large depredations of various gangs of outlaws in every district except Hazara are largely responsible. Advantage was also taken by local bad characters to commit burglaries in the hope that the crime would be attributed to one or other of the gangs. In Peshawar the system of "Jirga Sessions" has been tried. The Judicial Commissioner is not inclined to approve of this system, but on the whole their work appears to be good."

Paragraph 4. The Sessions Judge, Peshawar, Mr. Barton, states :—" The modern system of law in force in the frontier is unsuited to a population whose ethics are little in advance of the Dark Ages, and it is questionable if the Frontier Crimes Regulation affords sufficient corrective."

Judicial Commissioner observes on this :—" If the law in force on the Frontier fails to keep those forms of crime in check, the fault would appear to lie not with the state of law, but the way in which it is administered."

"The criminal statistics exhibit increases more or less marked under every head of serious crimes, excepting riots and attempts to murder." Referring to this, the District Magistrate, Peshawar, states "The past year has been one in which an unsettled border has been responsible for a great deal of violent crime."

"The right persons have not been placed on security. Only the small influential men have been hunted out. Their properties have escaped. Changes amongst Police officers have been unduly frequent and I am inclined to attribute a good deal of house breaking to their want of knowledge of their Thanas."

Referring to the general state of crime in Kohat, the District Magistrate remarked [paragraph (7)] :—" The outlaw pest is a curse to the community. The worst offences of the year may be put down to these marauders. I believe an improvement will follow the better armament of the population and the organization of the Chigha system."

"The tendency to send up some wretched scapegoat from a criminal village as a substitute for the real badmash will only be obviated when we have experienced Magistrates with a first hand knowledge of their ilaqa by extensive touring."

The District Magistrate, Bannu, stated :—" In all these raids except one, the offenders were either trans-frontier men or outlaws. They came in gangs of 9 or 10 men well armed. In most cases the object was to loot and kidnap wealthy Hindus and the rapid succession of 7 raids naturally caused much alarm among the Hindu population of the District who took refuge in large numbers in Bannu city."

Paragraph 23. The Deputy Commissioner, Kohat (Mr. Barton) remarked :—“ Another point to be noted is the inefficiency of our methods of dealing with crime such as thefts and burglaries as evidenced by the small percentage of conviction. The inference is obvious that crime of this kind is attended with very little danger.

1909. Judicial Commissioner :—“ In Peshawar there has been an increase in the offences of rioting, murder and kidnapping.

In Hazara, there is an increase in rioting, kidnapping. In Kohat, murders and robberies increased and theft and kidnapping also.”

As to kidnapping, Mr. Barton, District Magistrate, Kohat :—“ The abduction of rich Hindus is an enterprise to which the Kohat outlaw gangs devote most of their energies. They find it a profitable and not dangerous pursuit. The Pathan villagers have not rendered themselves conspicuous for assistance given on such occasions.”

In Bannu serious offences rose from 344 to 469.

The District Magistrate remarks :—“ The District as usual suffered from depredations of outlaws. The principal object of these raids is to kidnap wealthy people preferably Hindus.”

The District Magistrate “ thinks that the Hindus who set the bad example of releasing their kidnapped relations on payment of enormous ransoms under protest from local officers are mostly responsible for this increase in raids.” The Sessions Judge, however, remarks :—“ These unfortunate people have no choice in the matter. They get little assistance from their Muhammadan villagers, many of whom no doubt share in the ransom, and so far, Government has been able to do little to help them.”

The Judicial Commissioner agrees with the Sessions Judge “ In consequence of the insecurity of life and property many Hindus removed with their valuables for refuge in the towns of Bannu and Lakki.”

“ I think more satisfactory results might perhaps be attained if the Police were more prompt in the inquiry of witnesses and in reducing to writing their statements before plots have had time to mature.”

On the working of Frontier Crimes Regulation the District Magistrate, Bannu, states :—“ It must be admitted that the inability to secure a conviction of an accused person for want of proof is a flaw in the administration of the Police and consequently the increase in the number of criminal references to *jirga* cannot be looked upon with satisfaction.”

1910. Chief Commissioner reports :—“ The figures for the year under review show a very substantial increase in the amount of crime committed. A full consideration of the case has forced the Chief Commissioner to the opinion that the outlaw and other evils are largely due to the failure of the attempt to force on the people a system of criminal law which makes little, if any, attempt to differentiate those cases in which the parties might be assisted to come to a settlement.

None of the superior judiciary had much legal training and they have doubtless done their best with the evidence placed before them, but when out of 317 cases of murder admitted to have occurred only 16 persons suffered the full penalty of law, it is obvious that the errors of the law can have little deterrent effect. The Chief Commissioner cannot agree with paragraph 18 of the Judicial Commissioner's report where he expresses the hope that the work of the regular courts will be increased and the number of cases under the Frontier Crimes Regulation diminished, as he considers the latter give more satisfactory results.”

“ In Peshawar, there has been marked increase in cases of murder, culpable homicide, thefts, robberies, and dacoities.

“ As to the extent to which the transborder men are responsible for the Peshawar crimes of the year, it must be remembered that a great number of heinous offences, e.g., dacoities in which trans-border men are concerned, have to be filed as untraced and the offenders are never brought to trial. The above statement therefore in no way represents the volume of crime committed by men from beyond

the border in British territory. The fact that so many cases go unpunished is a matter for consideration by the Political and Police officers concerned and does not concern the working of criminal courts.

"I do not trace any connection between this increase in crime and lawlessness and the action taken in courts. A heavy strain has been placed on courts by the increased work of recent years. The frequent transfers among the Magistrates and Sessions Judges add a difficulty.

"The root of the evil from which all lawlessness springs both within and without the border is ignorance and knowledge."

Paragraph 18 :—"The danger of the Regulation in relation to the criminal courts is that it is far easier to send a case to a *jirga* than it is to have a regular trial. Much labour is avoided and slackness is encouraged. In times when violent crime is ripe, the danger is greater, for under the Regulation a sentence of 14 years' rigorous imprisonment is very rightly the utmost sentence. Hence when numerous murder cases are sent to *jirgas* the impression must necessarily get about that murder is not murder or dacoity is not dacoity but a comparatively light offence and that our law will not impose a death sentence for it. There is no doubt that all along the frontier violent crime is regarded but lightly by the people. This easy and demoralised opinion is to be combated. Possibly one reason for the recent growth of crime has been an excessive use of these councils. I should be glad to see their work reduced and the criminal judiciary strengthened."

1911. Judicial Commissioner reports :—"The number of offences reported during the year was the largest recorded since the creation of the Province. The situation cannot be described as otherwise disquieting. It is a regrettable feature of the situation that crime of the more violent type has shown a progressive tendency to expand. The number of murders in 1904 rose from 141 to 317 in 1910. Attempts at murder have increased. Burglary is more ripe than at the commencement of the decade. In view of these outstanding facts it must be admitted that crime is spreading. Various causes have been put forward. In times of border unrest criminal element is more excitable and active. Outlawry has greater attractions than in the past. There are Magistrates who prefer to acquit or discharge rather than face legal complexities raised by prisoner's counsel. The most potent cause of the present conditions is that a great part of serious crime goes unpunished, partly because most cases never reach the stage of a trial in court at all. The obvious inference is that our present machinery, Police as well as judicial is not fully adapted to the conditions of this Province."

The Chief Commissioner's Remarks :—"The Chief Commissioner does not share to the full the apprehensions of the Judicial Commissioner with regard to increase of crime.

"The enforcement of death penalty has become so rare that the fear of it has ceased to be a deterrent while its alternative transportation for life exists now only in name owing to the very liberal system of remissions.

"At the same time, it is necessary to point out that although criminality as represented by violent crime is certainly high in North-West Frontier Province it need not be assumed crime is abnormally ripe upon the Frontier.

"It is the obvious duty of all courts to do their utmost to check the flood of perjury which threatens to swamp our judicial system. The Chief Commissioner while acknowledging the capacity and industry of the Magistrates has to notice a certain laxity and unconcern on the part of courts in dealing with cases.

"Two most undesirable results ensue :—First is indifference on the part of the people to the penalties attaching to false evidence and abuse of law.

"Second is a great deal of violent crime."

*1912. Chief Commissioner's Review :—*The salient feature of the criminal report of the year is that there has been a further increase in the crime returned as true in all districts. The continued rise of admitted crime cannot be satisfactorily accounted for by the idiosyncrasies of the District Criminal Administration.

The figures lead to the logical deduction.

1st.—The real criminal has a much better chance of escaping punishment in our courts and is emboldened by his immunity.

2nd.—The public are more and more using the criminal courts for their own ends which the courts do little to check this contempt of authority.

In a year in which the murder record has been the highest, the attention is arrested by the fact that the number of cases in which death sentence has been confirmed is the lowest since the upward movement of crime began.

Judicial Commissioner :—“ It is undesirable that Naib Tahsildars most of whom are inexperienced should be made responsible for a large part of the criminal work, which from its nature requires trained judicial capacity for its proper disposal.

“ A stiffening of the moral fibre of the courts should work an improvement in the criminal administration of the border land. Some Magistrates shirk a full enquiry in a doubtful or complex case and suggest references to a *jirga* to avoid forming an independent opinion.”

The Sessions Judge, Peshawar, Mr. Rennie, remarked :—“ The most disquieting feature of the year was the alarming increase in violent crime. That serious crime is on the upgrade cannot be denied and this is due doubtless, as remarked by the District Magistrate to the unconcern with which outlawry is viewed and to infrequency of death sentence.

“ Political considerations do make it desirable in recognition of Pathan sentiment to permit the repatriation of outlaws and if repatriation has been made easier, it is not without significance that the policy should coincide with a general all-round increase in crime.

“ The immunity from punishment enjoyed by criminals and more particularly by murderers can not but have disastrous effects upon potential law breakers.

“ The chances of escapes as indicated by the low percentage of convictions is an added encouragement to the professional depredation. This is due partly to the inherent difficulty of the problem of detection; partly to the progressive abandonment by the police of the time honoured methods of detection. There is reason to believe that in many cases the burglar and the thief have many of the Khans and leading Maliks on their side.

“ The majority of dacoities in Dera Ismail Khan which rose from 8 to 22 were the work of trans-border men and outlaws.

1913. Judicial Commissioner :—“ The statistics shows increases more or less marked under riots, hurt, kidnapping, theft, robbery, dacoity and criminal trespass resulting in death.

“ The truth is that the number of persons convicted in the regular criminal courts bear so small a proportion to the number of offenders that the nature of punishment to be expected can hardly be said to enter seriously into the calculations of the criminal.—

				True murder cases.	Brought to trial.	Number of cases in which anybody was convicted.
Peshawar	..	..	..	126	49	23
Hazara	..	..	..	30	16	9
Kohat	..	..	..	64	40	15
Bannu	..	..	..	55	28	9
Dera Ismail Khan	..	..	..	22	12	4
Total				297	145	60

The real problem is that of detection of offenders in the graver type of cases and its solution lies to some extent in the improvement of the official detective agency, the police, but chiefly in enlisting the sympathies of the people on the side of law and order against the criminal. Some think this can be best done by the slow process of education and moral enlightenment. But that education makes the eastern mind more disinclined to violence has not yet been proved in other parts of India. In Peshawar, the number of true cases of rioting, hurt, kidnapping, theft, criminal trespass and burglary increased.

"In Hazara, the number of true cases of serious crime has risen from 905 to 1,063.

"One sinister feature indicating the prevailing spirit is the large increase in cases of contempt of lawful authority. Instances have occurred of successful defiance of the police and process serving agencies."

Jirga system and its working :—The District Magistrate, Hazara, thinks that the greater use of *jirgas* tends to make the police slack in investigation and he suggests with much reason that the Deputy Commissioner might be authorized on the conclusion of a *jirga* trial ending in conviction to pass orders if such conviction is to be shown in the Police returns to the credit of the Police or not.

The District Magistrate, Bannu, reports "that the working of the *jirga* has been much impeded by faction feeling which is ripe. This has made it impossible to select impartial tribunals."

1914. Mr. Fraser, District Magistrate, Dera Ismail Khan, stated :—"Although the number of the offences was the highest recorded since the new province was created, yet it is not the inhabitants of the District who should be held responsible. A very large proportion of these serious crimes are the work of trans-border offenders."

Paragraph 27. Judicial Commissioner :—"The criminal work of the Indian Magistrates can hardly be called good except in a few cases. The Sessions Judge, Peshawar, thinks that the reason for their shortcoming is that either the Magistrates are inexperienced or they have fallen into a groove from which it is impossible to displace them. Mr. Rennie, Sessions Judge, Peshawar, thinks it is idle to hope for any marked advance in the standard of efficiency in the provincial service until its members improve individually. The standard of efficiency in the provincial service leaves much to be desired. The same stagnation is noticeable in the sphere of criminal work as on the civil side. Dilatory methods of disposal constitute perhaps the most prominent fault and cases are frequently allowed to drag on for months. One result of the law's delays is to embarrass the prosecution while much inconvenience is caused to witnesses and unnecessary expense to the crown. Another common fault is perfunctory methods of recording evidence, cross-examination and statements of the accused and as a consequence unnecessary complexity of work in appellate courts in cases of conviction and on some occasion a failure of justice simply because the cases for the prosecution has not been fully brought out. Want of supervision of the clerical establishment is another common failing. This usually tends to degeneracy in the subordinate staff and the working of the court."

1915. Chief Commissioner's Review :—"It is probable that the rise in crime, anyhow of the serious kind is the indirect reflex and also the direct consequence of the disturbed state of Frontier resulting from the war. Many of the dacoities are traceable to trans-border men, while the general feeling of unrest throughout the country caused by Turkey's participation in the war with its feared influence on Afghan policy and thence on the border tribes and the more fanatical inhabitants of the province, founded a congenial evil for a sudden upgrowth of murder and other violent crimes."

"Reviewing the year's working of the criminal courts as a whole the chief Commissioner is compelled to observe that the work of the magistracy from the District Magistrate downwards requires stiffening. The Judicial Commissioner remarks that much of the failure to convict is due to the incompetency and lack of moral fibre in magistrates of the lowest grade and to the failure of the District

Magistrate to deal strictly with the Sub-Magistrates; that the number of petty sentences of imprisonment discloses the necessity of a closer supervision of the subordinate courts by District Magistrates; that delays in disposal are ripe and might be eradicated by greater supervision on the part of District Magistrates. District Magistrates also fail to take their full share of the criminal work of their districts. The Chief Commissioner is loath to criticise District and Sub-Divisional Magistrates too severely in a year when the claims of political work on their time have been excessive. As regards sub-magistracy there is less excuse for them and the Chief Commissioner looks to the Judicial Commissioner and District Magistrate to infuse a better spirit into them. * * * The periodical confidential reports on officers it must be confessed are difficult generally to reconcile with the picture of the work portrayed in the administration reports. Looking back at previous reports and reviews and at the constant repetition containing the same defects from year to year the Chief Commissioner is constrained to think that an improvement might be effected were the criticisms passed by the Judicial Commissioner and Chief Commissioner embodied in circular."

The Judicial Commissioner's Report.—"It is a truism that the immense volume of frivolous litigation in the criminal courts is to a large degree due to the incompetency and lack of moral fibre in magistrates of lower grades. The only satisfactory remedy is the abolition of the Tahsil Courts.

"There has been some weakness in the supervision of sub-courts by the District Magistrates.

"It is a common complaint that frivolous complaints are chiefly used as lever to enforce a civil claim and it is a matter for regret that the morale of the magistracy is too weak to resist the tendency.

"Careful discrimination is required in dealing with security cases. Many lambardars in Peshawar and Bannu districts are believed to have bad characters in their pay and in order to shield the latter they produce as victims of security proceedings unfortunate village menials who are really harmless.

"I have noticed from a perusal of the monthly statements that in many districts, notably in Peshawar, accused persons have been frequently kept for some months in the judicial lock-up awaiting trial by *jirga*.

"Delays are still of frequent occurrence in the courts of magistrates belonging to the Provincial Service. Cases, especially those in which a reference to *jirga* is inevitable, are allowed to drag on for months, the slightest pretext being sufficient for an adjournment."

The District Magistrate, Peshawar, Mr. Bolton, wrote :—"There has been so much political and other work during the year that it has not been possible to devote the same attention to the details of criminal work as in former years."

1916 :—"The Chief Commissioner regrets that the Judicial Commissioner has been again compelled to remark on the weakness and invertebracy of the subordinate magistracy. He thinks that perhaps persistent pilloring in the annual reports of offenders may have the desired effect of arousing some of them to greater efforts.

As regards District Magistrates, it appears that the oft repeated complaint about their failure to take their share of work has had some slight effect. It is hoped that in spite of the heavy demands on their time made by the political and executive duties they will endeavour to comply with the Judicial Commissioner's wishes in that respect.

Judicial Commissioner :—"The weakness and invertebracy of the subordinate magistracy have formed the theme of successive reports and the indictment is again supported by result of trials for petty offences during the year.

"As usual in most districts, the magistrates spend much of their time in dealing with frivolous complaints under section 107, Criminal Procedure Code."

District Magistrate, Peshawar :—"The state of affairs which could not have existed without passive and active help of the residents of the district at the end of last

year which to say the least of it is deplorable. Hindus fled across the border. Local bad characters banded together and raided like Mahsuds. But by the use of preventive sections most of the bad characters have been laid by the heels and frightened into quiescence."

Sessions Judge, Peshawar :—"The greater activity displayed in taking preventive measures is not reflected in the criminal statistics and the increased safeguards applied were unable to keep in check offences either against the person or property."

Mr. Bolton stated :—"There is again a rise in serious crime due I think in the main to the unsettled conditions caused by the war, and the disturbances across the border. The year's work has been heavy. Political and other miscellaneous work due to the war occupied an increasing amount of time and the statistical returns represent a constantly diminishing proportion of the actual work done at any rate by the District and Sub-Divisional Magistrates."

District Magistrate, Bannu :—"It is clear that outlawry has not the terrors it had and that at the slightest provocation a murder is committed and the murderer gets across the border and until Government insists on no outlaw remaining within 20 or 30 miles of the frontier, outlawry will be regarded with composure."

1917. Judicial Commissioner :—"An outstanding phenomenon of the reports on criminal justice is the recurrence of crime year after year in only slightly varying volume. The efforts of the local authorities are usually confined to explaining such variations as occur and little attention appears to be given to the problem of dealing with the prevention of crime as a whole. It seems to be accepted as axiomatic that a more or less normal crop of offences must be expected year after year."

District Magistrate, Dera Ismail Khan :—"Major Heale's vigorous activity had shown the residents of the district that although the control of the Mahsud offenders from across the border was for the time being beyond the power of the forces available on the spot, Government still was not only willing but able to support the law-abiding, to punish the evil doer, and generally to enforce respect for law."

1918 :—"There is always a temptation for the police to relax their efforts in cases in which a conviction by the regular courts is uncertain to trust to Council of Elders to remedy their want of success."

1919. Chief Commissioner remarks :—"The year 1919 was marked by a very large increase in the incidence of crime. Cases of murder rose from 319 to 445, kidnapping from 54 to 1,919; dacoity with murder from 17 to 93 and without murder from 93 to 410. There was also a serious increase in the number of cases of rioting, attempted murder, aggravated hurt, robbery, criminal trespass."

"The Judicial Commissioner attributes this unhappy record to the state of unrest caused by the reaction from Punjab disturbances, by the outbreak of the Afghan war, and by the active hostility of the trans-frontier tribes. In Peshawar 99 dacoities out of 137 were attributed to trans-border offenders. Their success again emboldened the more lawless spirits of the interior of the district to imitate their crimes in the hope these too would be placed to the credit of trans-border tribes. The appalling number of murders is due largely to the same conditions."

"The Chief Commissioner can not but think that a contributing cause is the absence among the frontier communities of healthy forms of amusement. Severity of punishment has no tendency to reduce crime. When a large number of offences eventually go unpunished, the passing of severe sentences in isolated cases tend merely to reduce justice to an illogical gamble and alienates public opinion from criminal administration as a whole."

Frontier Crimes Regulation :—"As a general criticism I can not regard the present method of working the Frontier Crimes Regulation in this province as entirely satisfactory. Closer attention is required to the policy and principles which underlie it. Its object is not so much to drastically deal with crime as to reconcile Pathan custom with the general law of the country and to supersede more complex legal procedure by simpler methods of justice consonant with, and intelligible to, popular feeling in the frontier tracts."

Judicial Commissioner says :—" Murders and dacoities are the highest ever chronicled and there was a large increase in cases of criminal trespass resulting in death. In Peshawar the record of serious crimes was abnormal. As regards dacoities it is unquestionable that the disturbed border conditions have proved the strongest factor in their expansion."

The District Magistrate, Kohat, wrote :—" There has been an uninterrupted succession of raids from the time of the siege of Thall by the Afghan army in May till the end of the year. Dacoities with murder rose. Many of the minor raids are the work of local character. An unsatisfactory feature has been the fact that trans-border gangs have been able by means of harbourage and food afforded by British subjects to penetrate into the far eastern tracts of the district. This is largely due to the co-operation of Khuttack outlaws who reside with the Wazirs and who are all able to arrange for the assistance of their relatives in British territory."

1920. *The Chief Commissioner remarks* :—" The Pathan population have ties of custom and kinship with the tribal Afghan borderland which render them prone at all times to lawlessness, quick to violence and apt to seek vengeance themselves. Their proximity to the borders renders it necessary to permit a wide distribution of arms for purposes of defence. On the other side lies British India which had, for a long period now abruptly ended, gradually distilled across the Indus ideals of ancient peace into the districts of the Frontier Province. Public opinion views with comparative indifference crimes however violent committed in conformity with tribal custom and sense of honour."

"Where crime is heinous and directed against the public peace in the security of property he considers that the ordinary courts should normally be employed and severe sentences inflicted. Even in those cases it may be necessary to employ the *jirga* system where the guilt of accused is notorious but judicial proof is lacking. But care is required on the part of officers administering the Regulation that only the right class of cases is sent to the *jirga*. They will find natural tendency on the part of the sub-magistracy to recommend all cases for *jirga* partly in order to avoid the work and responsibility involved in deciding the cases themselves. The more serious danger is that the police will become discouraged and ineffective in their investigation of crime. It has been the custom in the past for the police to earmark a particular crime as suitable for the *jirga* and then to have the *jirga* to arrive at the truth without any assistance from the police in the sifting of evidence. The hall-mark of a *jirga* case is no longer dearth of judicial evidence but rather the fact that crime was the outcome of Pathan temperament and tribal custom. A *jirga* requires assistance in arriving at a conclusion as to the guilt or innocence of the accused no less than does a court and Chief Commissioner trusts that the Inspector General of Police will impress on his investigating staff that the extension of the *jirga* system of trial does not warrant any relaxation of effort on their part."

Judicial Commissioner says :—" In Peshawar there was an increase in every class of important crime except in case of kidnapping, rape. The murder record broke all bounds.

"In Kohat the insecurity of human life continued. The countryside generally was less safe as shown by the increase in dacoities and robberies.

"In Bannu the marauding tribesman was just as active as in the adjoining distant.

"Human life was no safer in Bannu than at Kohat. For the first time in the history of the Province, the murder record reached 3 figures. Violent crime against the person was the most sinister feature of the year. * * * Attempts at murder were nearly double those of the previous year.

"An unwelcome feature was the question in cases of contempt of the lawful authority of public security.

"The District Magistrate writes that the number of such cases is steadily increasing every year.

“ In Dera Ismail Khan violent crime against the person as in every other district is a regrettable increase. As has been said the main causes which led to the aggravated state of crime in the province were political and economic. The hostile attitude of the tribes reacted on the people as a natural result of the close ties of kinship and religion which unite the cis and trans-border. It is also axiomatic that trans-border offenders can not operate without the help of local confederates whether induced by terrorism, sympathy, self glory or the hope of plunder. It is not surprising that in those districts the previous records of many crimes of a serious nature were altogether eclipsed.

“ The problem of rendering life and property safer is beset with the difficulties to which the Sessions Judge alludes and under the present system it is not easy to devise any remedy of practical value. My firm conviction is that little improvement can be hoped for till there is a territorial readjustment of Peshawar District. The area administered by the District is cumbersome and unweildy and it is idle to suppose that with the multiplicity of his duties, he can find time for the proper supervision of the numerous courts subordinate to his own. There may be many other considerations which preclude rearrangement but from a judicial point of view a smaller charge could scarcely fail to ensure closer contact with and control of criminal elements and to infuse a spirit of greater efficiency which, under present conditions, seems impossible of attainment.”

ANNEXURE B.

Extracts from Civil Justice Administration Reports.

1901 :—“ The Divisional and District reports contain comments to the effect that civil case work suffers owing to various classes of officers, who are required to take a share in the disposal of civil business being charged with criminal revision and other miscellaneous duties which leave them but little time for the hearing of civil suits.”

Chief Commissioner :—“ The Chief Commissioner considers the average duration of suits in paid Sub-Divisional tribunals unduly high and invites the attention of Judicial Commissioner to the matter.”

1902 : “ The Chief Commissioner can not but regard adversely the increase in the average duration of suits in original courts. The porportion of civil business disposed of by Assistant Commissioner continues to be exceedingly small.

“ The average duration of appeals in the Divisional Courts was 133 days ; this unduly high duration is attributable to the fact that large arrears of old standing appeals were cleared off during the year.”

1903. *The District Judge, Hazara said* :—“ In this district there is a tendency on the part of the civil sub-courts to issue commissions in most of the cases instituted in each court. Commissions are issued as a rule without necessity and they are issued to persons who are not by education and professional ability fit for making a proper enquiry in each case. The fees to commissioners are more or less excessive.”

Judicial Commissioner stated :—“ It is hardly to be wondered at if the comparative monotony of civil judicial work in Kutchery should not appeal to officers whose sphere of duties includes the more interesting work of carrying on political dealings with trans-border tribes and the more exciting occupation of hunting down outlaws ; it must be remembered that in other provinces Assistant Commissioners have not got these counter attractions to divert their attention from civil case work. In reviewing the Civil Justice Administration Report for 1902 the Government of India in the Foreign Department considered that the small number of civil cases dealt with by District Judges and Assistant Commissioners in this Province was an unsatisfactory feature.”

Paragraph 12 :—“ The falling off in disposals by the agency of Subordinate Judges is ascribable to the facts that for one and a half months there was no Sub-Judge at Kohat and that the appointment of Assistant Commissioner at Headquarters and Sub-Judge of Dera Ismail Khan remained vacant for four months.

The absence of an Assistant Commissioner and Sub-Judge at Dera Ismail Khan for so long a period led to a very serious dislocation of civil business; cases pending in his court were transferred to other officers, who, having their own full toll of work to do, were unable to take them up, the hearings were constantly postponed from date to date with the result that much trouble and inconvenience was caused to the litigants concerned."

1905.—"Hazara was unfortunate in having had five changes in the Office of District Judge during the year."

Paragraph 9.—"The Office of District Judge of Bannu-cum-Dera Ismail Khan was held by no less than five different officers in the year under report, and there were also four changes of incumbents in the District Judgeship of Peshawar. The frequent changes, even though unavoidable, are none the less unfortunate from the point of view of the interests of the administration of civil justice; for they cannot fail to affect injuriously the amount of supervision and control which the District Judge is expected to exercise over subordinate courts."

1906. *Judicial Commissioner (Mr. Bunbury)*.—"At the close of the year under report, one and shortly after its close two of the most important posts of District Judges and Additional District Magistrates in this province were held by officers who were not fitted by their previous training and experience for these appointments. The Judicial Commissioner considers it his duty to draw attention to the inconveniences of a system which necessitates the postings of senior officers of the Police Department to purely judicial appointments in the province for which they are not properly qualified. No doubt such postings are only made because the officers can not be conveniently provided for otherwise; but nevertheless the system cannot fail to affect injuriously the interests of the public and judicial administration alike. The post of District Judge and Additional District Judge is of far too important a kind to be treated as a 'pis aller.' This protest is directed against the system and not against the individual officers concerned; they have no option in the matter; it is not their fault if they are posted to judicial appointments which are as uncongenial to them as they are unsuitable."

"A change which the Judicial Commissioner would like to see introduced and which would promote the interests of the judicial administration, and the convenience of the public, would be to have a separate District Judge at Dera Ismail Khan. This change can not be proposed or carried into effect unless and until there is a reasonable certainty of an officer being available on the staff of Dera Ismail Khan District who would be qualified to exercise the powers of a District Judge. In the past it has often happened that for long periods there has not been an officer on the District staff who could be invested with the powers of a Subordinate Judge. The office of the District Judge of Bannu and Dera Ismail Khan was held by no less than five different officers in the year under report and there are also four incumbents in the District Judge, Peshawar. The frequent changes even though unavoidable are none the less unfortunate from the point of view of the administration of civil justice."

1907. *The Chief Commissioner's Review*.—"Last year attention was called to the growing tendency on the part of civil courts to ease their own burdens by issuing commissions to Revenue officers for local investigations. The Chief Commissioner notes that the statistics of the present year reveal the fact that this evil so far from being checked has actually increased."

"The unusually low proportion of realizations on account of money decrees in execution is the most unsatisfactory feature of the year's work."

Paragraph 11.—"The office of District Judge, Peshawar, was held by no less than five different officers in the year under report and that of Bannu-cum-Dera Ismail Khan by four; there were also three changes of incumbents in the District Judgeship of Hazara."

"The drawbacks entailed by such frequent changes in the important office of District Judge were noticed in paragraph 9 of last year's report."

1908. *Chief Commissioner*.—"The neglect of reiterated orders by the Peshawar courts on the subject of issue of commissions to Revenue officers for

examination of accounts mars a year in which the courts deserve a fullmead of praise."

1909. *Paragraph 12.*—"The Office of District Judge Bannu-cum-Dera Ismail Khan was held by five officers during the year under report. The decrease in the disposal of cases was due to the station being without a Sub-Judge with appellate powers for about five months.

"The year under report was again characterised by frequent changes in the post of District Judge of Peshawar which was held by five different officers. Three changes of incumbents occurred also in the District Judgeship of Hazara."

1909. *Mr. Bolton, Additional Divisional Judge, Peshawar, said* :—"I notice a tendency in many courts and the District Courts in particular to issue a commission in every case of a complicated nature often without specifying the suits on which report is made. Various cases have come before me in which a commissioner was appointed for local inquiry, but the persons appointed made no local inquiry but merely recorded evidence which could and should have been recorded by the District Judge or other presiding officer himself. I think a warning to the presiding officers is required to the effect they must not shift the responsibility for the trial of a case to another person under cover of an order for the appointment of a commission for local inquiry.

1910. *Judicial Commissioner* :—"The important District Judgeship of Peshawar was held by five different officers in the year, and the District Judgeship of Bannu by three. A District Judge controls and supervises the Subordinate Courts and the bad effect of these constant changes which has been previously represented is patent. Undoubtedly these changes interfere with both the disposal of original work and the proper control of Subordinate Courts."

1911. *Chief Commissioner's Review* :—"The falling off in the civil case work performed by Assistant Commissioners has been unfortunate as the Chief Commissioner fully recognizes the importance of a thorough grounding of junior officers in this branch of their work; but during the past year this object has not been attainable owing to the shortage of British officers in the Province and the employment of Assistant Commissioners in other duties. The frequent changes in the presiding officers of the Divisional Court and the District Court of Peshawar has also been unavoidable owing to the difficulties inherent in the arrangement of the postings of officers in a small province though the Chief Commissioner has had before him the detrimental effect of transfers on the disposal of work.

"The Chief Commissioner regrets to notice that the Divisional Judge, Peshawar, has been obliged to make some incisive remarks on the neglect of procedure by the courts in this division."

Paragraph 12. Judicial Commissioner's remarks :—"The office of District Judge, Peshawar, was again held by four different officers. The drawbacks entailed by such frequent changes in the important office of District Judge have been noticed during the past year.

"The Divisional Judgeships each changed hands three times in the year. In Dera Ismail Khan the District Judgeship was held by the Deputy Commissioner, *ex officio*; I hope that a time will come when these repeated transfers may be minimised. Sustained and efficient civil work can not be hoped for while the incumbents of the highest posts are changed with such frequency.

"The subordinate courts in the matter of inspection and control are left too much to themselves. So much depends on the efficiency of the courts that I bring this point, which has been noticed before, into prominence as one of great importance.

"The Assistant Commissioners do little civil work. With some exceptions they need experience and civil work is never popular. The Extra Assistant Commissioners in connection with civil work are a difficult point. The list includes not more than two officers who are fit to do the duties of a District Judge and more than one of the officers appointed to these posts has been definitely reported as unfit for the duties he carries on.

"Their position is one which caused me a good deal of anxiety. A great deal of work in this branch is indifferent and the want of judicial capacity and experience is often apparent."

The District Judge, Peshawar, Major Blakkenay, observed as follows :—"I can not comment favourably on the procedure of District Civil Courts. Much of the work shows signs of haste and inattention to rules. Some of the common irregularities and omissions for instance are that originals and copies of documents referred to in the pleadings are wanting altogether. The examination of the parties is not conducted in accordance with rules. Exhibits are not marked or numbered. Issues are multifarious. Judgments do not contain a clear statement of the case. For an appellate court continually to remand cases showing want of care and disregard of procedure which are chiefly manifested in the work of Tahsil and Provincial Service Agencies would lead to a hopeless block of judicial work and the omissions have as far as may be to be remedied on appeal. It seems some improvement in the system of training is required under which a closer practical acquaintance with judicial work could be ensured before an officer invested on the powers of a 1st or 2nd class Munsiff."

1912. The Chief Commissioner Reviewed :—"The inadequacy of the disposals of Assistant Commissioners has been previously noticed. It is to be regretted that the Judicial Commissioner has been under the necessity of commenting severely on the unsatisfactory judicial work of the members of the provincial service as in the last year's reports attention was drawn to the carelessness and disregard of procedure displayed in some of the courts presided over by members of this service and Tahsildars. In these days when the competition for appointment to Government service is acute and selection can be freely exercised, the litigating public expect and have a right to careful hearing and intelligent decisions on the part of judicial officers appointed by Government."

Judicial Commissioner's report :—"There can be little doubt that the tendency to issue commissions in all classes of suits is growing and must be checked. In many cases it simply means that the court is shirking the responsibility of arriving at an independent decision. With this expansion of legal business by commission it is not surprising that there should be signs of the appearance of the professional commissioner. This is a most undesirable phenomenon in judicial administration.

"A regrettable feature in the judicial administration is the perfunctoriness and apathy which characterise much of the work of officers of the Provincial service. Too much is often left to the subordinate clerical staff. There is a tendency to postpone difficult and complicated cases on the slightest pretexts, doubtless in the hope that the parties will out of sheer exhaustion be driven to compromise. Sufficient attention is not paid to the rules of procedure though there is some improvement in this respect and the inquiry is often of a very inadequate kind. Courts should remember that a careful observance of rules and some attempt at clear elucidations of the issues in a case some time and trouble in the end create a favourable impression of their making and inspire confidence in the litigating public."

1913.—Judicial Commissioner's Report :—The Divisional Judge, Peshawar, Mr. Rennie, says :—"The issue of commissions showed a further increase and the attention of the courts is again drawn to the growth of this irregular method of procedure. In cases which come before me on appeal it is often found that the whole case is handed over bodily to a commission and that even points of law are frequently entrusted to a commissioner for adjudication.

"In connection with appellate work it must be put on record that unless the Divisional Court is to become merely the means of registering and endorsing the decrees and orders of Subordinate Courts, there must inevitably be arrears and heavy pending file. My own experience is that the work of the Subordinate Courts is in many cases utterly wanting in thoroughness, that points are missed or never put in issue and decided, and that materials on the file are often quite inadequate on which to base a decision. It is these defects which necessitate

a remand; thereby the Divisional Court's own file is thrown out of gear and arrears result. But if the Divisional Court is to serve any purpose at all, it is just these defects which are noted which have to be remedied."

1914. Chief Commissioner (paragraph 5):—"The Chief Commissioner is disappointed to find, after the improvement noted in this respect in 1915, that the inadequacy of disposals by Assistant Commissioners is almost as marked as in 1912. The percentage of disposals by these courts to the total disposals has dropped from 2.4 to 1.7. This decline is not explained by the slight decrease in the number of Assistant Commissioners at the close of the year, for the average disposals by each of such officers have dropped from 80 to 64. The Chief Commissioner trusts that the Judicial Commissioner may be able to take stronger measures again to ensure that this class of officers takes a greater share in the administration of Civil Justice, obtaining thereby incidentally a better judicial training. The Chief Commissioner has read with regret the Judicial Commissioner's remarks upon the CONTINUED UNSATISFACTORY NATURE OF THE WORK OF MOST OF THE MEMBERS OF THE PROVINCIAL SERVICE."

"In Bannu the falling off was due to the district being short of one officer for a large part of the year."

Judicial Commissioner:—"The practice of what in effect is to transfer the whole decision of a case to a commissioner is still too prominent, though there seems to have been some improvement in this respect."

"It is undesirable that so large a number (as 628) of suits should be decided by officers of this class (Naib Tahsildars) who are frequently too much inexperienced for dealing with complicated land litigations."

"With regard to the quality of work of the members of the Provincial Service, to which reference is made in the review of report of last year, from such of last year's work of this class of officer as has come before me on appeal or revision and from an inspection of the courts of Kohat, Bannu, I must adhere to the views expressed two years ago that the methods of the Extra Assistant Commissioner's Courts show in many cases a lack of interest and of vitality, and as a necessary corollary of these deficiencies a failure to adopt rules of procedure and a desire to rid themselves of complicated cases by dismissals in default by the issue of commission or wearing out the parties till they are driven to compromise or in some cases by arbitration. There are many honourable exceptions, but on the whole the remark is true that the service is suffering from stagnation."

1916. The Chief Commissioner:—"Among the more unsatisfactory features of the year's working of the courts, the Chief Commissioner notices the tendency to relegate to commission enquiries which Judges themselves should conduct; the great rise in the duration of uncontested cases; the decrease in the output of Extra Assistant Commissioners, the rise in the average duration of appeals and the continued disinclination of Assistant Commissioners to take their full share in civil work which is so essential for their training."

Judicial Commissioner's report:—"There is reason to suppose that the professional commissioner is figuring too prominently in some courts and presiding officers should be on their guard to check the growth of this evil. Many courts are still apt to relegate the burden of deciding complicated points to a commissioner instead of taking the trouble of themselves elucidating them. The efficiency of the District Court of Peshawar has been impaired of late years by the frequent transfer of officers. This not only affects the work of the court itself; an unfortunate consequence of frequent changes of officers is that the present permanent staff of the court acquires a disproportionate influence."

Paragraph 11:—"During the year under review a tentative scheme was formulated by the Local Administration for the consideration of the Judicial Commissioner of appointing a Judicial Extra Assistant Commissioner to each District with local allowance of Rs. 50 each, whose work would be purely judicial and uninterrupted by any executive duties. The scheme, however, was not finally approved till after the close of 1916 and owing to the paucity of sufficiently

qualified officers in the Provincial Civil Service, it has not been possible even yet to fill all the posts."

Paragraph 20.—"The efficiency of the District Court of Peshawar has been impaired of late years by the frequent transfers of officers. This not only affects the work of supervision but generally prejudices the work of the court itself. This is the most important District Court in the Province, and many cases of high value, in which commercial interests are involved, come up for decision. An unfortunate consequence of frequent changes of officers is that the permanent staff of the Court acquires a disproportionate influence. It is hoped that it will be found possible to avoid frequent transfers of this kind in future."

1917. Judicial Commissioner.—"The number of commissions issued was 416 against 377 in 1916. The practice of issuing commissions is far too common in Peshawar and as a result of recent inspections special steps have been taken to restrict it within reasonable limits."

1918. The Judicial Commissioner states.—"The staff of the Dera Ismail Khan Courts appear to have had the worst record. The Judicial Commissioner mentions the following officers as having specially bad record in this respect, namely, Mr. Metcalfe, Major Perscot, Sher Zaman Khan, Ghulam Haidar Khan and Sher Muhammad Khan."

"Paragraph 9.—The inspection by me as Divisional Judge of many files in Peshawar disclosed the fact that cases were allowed to drag on for months until the epidemic (influenza) supervened, when it was hailed as a panacea for all criticism of delay and combined with the various armistice celebrations to serve as a convenient excuse to shelve any cases which might present difficulty."

"Paragraph 10.—It is still not an uncommon practice for a lazy presiding officer to hand a case lock, stock and barrel over to a commission and to base his judgment on its finding; further, intentional delay on the part of a partisan commissioner serves frequently to defer a decision indefinitely."

"Paragraph 12.—To outturn by this (Assistant Commissioners) agency was particularly poor in Bannu where two Assistant Commissioners working successively for 304 days contrived to dispose of only 19 cases out of 33 for disposal."

"Paragraph 16.—Inspections show that not infrequently litigants wearied out by constant postponements give up the unequal struggle and prefer to forego their claims altogether, and it is significant that the most dilatory courts often show a larger number of dismissals in default than others with a reputation for promptness of decision."

1919. The Chief Commissioner's review.—"There can be little doubt that courts are apt to adopt an unintelligent and stereotyped procedure in the initial stage of suit. The Chief Commissioner is glad to observe that the Judicial Commissioner has directed particular attention to the undoubtedly dilatory procedure of courts as evidenced by the figures for average duration."

Judicial Commissioner.—"Disposals by Assistant Commissioner declined by 146 as was to be expected in a year in which political administrative considerations overshadowed everything else."

1920. Judicial Commissioner's Reports.—"It is to be regretted that the constant instructions formulated with regard to the issue of commissions have been persistently disregarded by many of the courts during the year under review. After the improvement of last year this increased tendency on the part of many presiding officers to shirk their work by making it over to outsiders is more than disappointing. In some courts the evils become a positive scandal. There were strong grounds for thinking that in many cases neither the issue of the commission nor the personnel of commissioners had the approval of the parties."

"The increasing number of cases dismissed in default of *ex parte* decrees and of commissions and the heavy arrears, especially in Peshawar, all indicate a lack of interest and energy and a desire to stave off as long as possible the evil day of finality. Many courts seem to have fallen into a state of lethargy and

efforts to awaken them seem to be unavailing. Frequent inspections have little or no result and the same defects are found to recur with unfailing regularity; in many courts it is doubtful if inspection notes are read at all. The faults noticed are general. Too much is left to the court subordinate. Dates of hearing are fixed and processes issued without method and the cause of delay is ignored. Cases are postponed mechanically and adjournments given on inadequate grounds. The working of many courts has been hampered by constant changes of presiding officers who in some cases wilfully neglect their duties with the knowledge that their tenure was to be short. Another adverse factor has been the mediocrity or inexperience of some of the District Judges who held charge during the year; the work of supervision has suffered consequence."

The Divisional Judge, Peshawar, wrote:—"Peshawar has suffered consistently from frequent changes in the appointment of District Judges. In spite of the gradual increase in the number of extra Assistant Commissioner disposals have shown a steady falling off during the last five years while the pending file at the end of the year has been growing.

ANNEXURE C.

SOME IMPORTANT CAUSES OF INCREASE OF CRIME.

An analysis from the extracts in Annexure A.

I.—The Inefficiency of the magistracy.

1903.—Criminal Administration Report, 1903:—"Dera Ismail Khan alone of the districts in the province records an increase of 21 per cent. in the total number of offences reported and of 33 per cent. in the number of cases returned as true. The District Magistrate has ascribed this increase to the slackness of the native magistracy and to the ingrained propensity of the people of Dera Ismail Khan for resorting to criminal courts."

1906. Sessions Judge, Derajat Division, paragraph 2:—"The fact is the magistracy habitually neglects to carefully record the complainant's statement under 202 of the Criminal Procedure Code so fail to gauge to truth of the story. As a rule this important work is delegated to the subordinate clerk."

Judicial Commissioner stated:—"Constant reiteration and admonition are necessary to impress the importance of this subject on the Indian Magistrates as a whole."

1907.—"The Chief Commissioner concurs with the Judicial Commissioner in holding that the recrudescence of crimes especially burglary may be largely attributed to the failure on the part of the district authorities to make sufficient use of the preventive sections of the Criminal Procedure Code."

1908.—"The Sessions Judge remarks that the tendency to send up some wretched scape goat from a criminal village as a substitute for the real badmash will only be obviated when we have experienced magistrates with a first hand knowledge of their claka by extensive touring."

The Deputy Commissioner, Kohat, Mr. Barton states in paragraph 23:—"There is another point to be noted in our inefficiency of our methods of dealing with crime such as thefts, burglary as evidenced by the small percentage of convictions. The inference is obvious that the crime is attended with very little danger."

1910. Chief Commissioner's Report:—"None of the superior judiciary had much legal training. They have doubtless done their best with the evidence placed before them. But when out of 317 cases of murder admitted to have occurred only 16 persons suffered the full penalty of law. It is obvious that the terrors of the law can have little deterrent effect. The Chief Commissioner cannot agree in paragraph 18 of the Judicial Commissioner's report where he expresses the hope that the work of the regular courts will increase and the number of cases under the Frontier Crimes Regulation diminish as he considers the latter should give more satisfactory results."

1911. Judicial Commissioner remarks :—“ It is a regrettable feature of the situation that crime of a more violent type has shown a progressive tendency to expand attempts of murder have increased, burglary is more ripe than at the commencement of the In view of these outstanding facts it must be admitted that crime is spreading. Various causes have been put forward The weakness of a part of the subordinate magistracy and its failure properly to apply to an inelastic system as described. In 203 and 250 of the Code is similarly a factor which does not vary greatly. The increase in the number of legal practitioners may be a slight contributory cause. There are magistrates who prefer to acquit or discharge rather than face legal complexities raised by the prisoner's counsel. The obvious inference is that the present machinery, political as well as judicial, is not fully adapted to the peculiar society in the Frontier Province.”

In Kohat District Magistrate says :—“ The increase in crime both against the person and the property seems to indicate neither the police nor the magistrate exercise the discrimination in working the preventive law.”

The Judicial Commissioner :—“ I would for my own part trust rather to the improvement of the judiciary rather than a change in the criminal law. This as it stands is very flexible and has stood the test of time in many parts in India which were once as criminal as this is.”

1912. The District Magistrate, Peshawar, Mr. Bolton said :—“ I fear there is a general tendency for the magistrate to pay less attention than formerly to rules of procedure. Magistrates have not recorded evidence in their own hands and it is a rule to find examination of complainant treated as a matter of form. This laxity is due to ignorance and in others to laziness and the only remedy I can suggest is that Subordinate Magistrates should be subjected to longer and stricter periods of training.”

The Judicial Commissioner stated :—“ It is undesirable that Naib Tahsildars most of whom are inexperienced should be made responsible for a large part of the criminal work which by its nature requires trained judicial capacity for its proper disposal.”

Paragraph 27 :—“ The stiffening of the moral fibre of the courts should work an improvement in the criminal administration of the border land. Some magistrates shirk a full enquiry in a doubtful or complex case and suggest references to *jirgas* to avoid forming an independent opinion.”

1914. Judicial Commissioner :—“ The criminal work of the Indian Magistrates cannot be called good except in a few cases. The Sessions Judge, Peshawar, thinks that the reason for their shortcoming is that they are inexperienced or they have fallen into a groove from which it is impossible to displace them.”

“ Mr. Rennie, Sessions Judge, Peshawar, thinks it is idle to hope for any marked advance in the standard of efficiency in the provincial service until its members improve individually. The standard of efficiency in the provincial services leave much to be desired. The same stagnation is noticeable in the sphere of criminal work as on the civil side.”

1915. Chief Commissioner's Review :—“ Reviewing the year's criminal work as a whole. The Chief Commissioner is compelled to observe that the work of magistracy from District Magistrate downwards requires stiffening. The Judicial Commissioner remarks that much of the failure to convict is due to the incompetency and lack of moral fibre in magistrates of lowest grade and to the failure of District Magistrates to deal strictly with Tehsil magistrates. The District Magistrates also fail to take their full share of their districts. The Chief Commissioner is loath to criticise the district and sub-divisional magistrate severely when the claims of political on their time have been excessive.”

The Judicial Commissioner states :—“ It is a truism that the immense volume of frivolous litigation in criminal courts is largely due to the incompetency and the lack of moral fibre in magistrates in lower grades.”

District Magistrate, Dera Ismail Khan :—“ The statistics of crime in the Dera Ismail Khan for the past 4 or 5 years seem to disclose the progressive weakening of

the moral fibre in the population. It is not easy to attempt any diagnosis of the evil on the data available. Constant changes in the personnel of the district staff may have had an adverse effect. The delays in the courts and want of courage in the subordinate magistracy in dealing with criminal litigation have all had their influence in bringing about their results.

1916. *Chief Commissioner* :—"The Chief Commissioner regrets that the Judicial Commissioner is again compelled to remark on the weakness and invertebracy of the subordinate magistracy. He thinks that perhaps persistent pillar-ing in the annual reports of the offenders may have the desired effect of arousing some of them to greater efforts. As regards District Magistrates, it appears the oft repeated complaint about their failure to take their share of work has had some slight effect. It is hoped that in spite of the heavy demands on their time by way of the political and executive work, they will endeavour to comply with the Judicial Commissioner's wishes in that effect."

The Judicial Commissioner states :—"The weakness and invertebracy of the subordinate magistracy has formed the theme of successive reports and the indictment is again supported by results of trial by petty offences during the year."

II.—Inefficiency of Police and Lax Supervision.

1903. *Criminal Administration Report, Sessions Judge, Peshawar, paragraph 8*.—"I am certain that the increase in murders need not have occurred if the magistrates and the police had taken prompt measures in cases in which murders are likely. I am led to this conclusion from the Session cases which have come to me."

1904. *Political Administration Report, District Magistrate, Bannu, reports*.—"There is no doubt a tendency which will have to be watched for the relaxation of the efforts by Sub-Inspectors when it appears that a case will have to be referred to *jirga*."

1904. *The District Magistrate, Kohat, notes* :—"Out of 18 dacoities, 9 were committed by trans-border tribes and outlaws and 9 are shown as having been committed by British subjects. This is an unsatisfactory feature and shows lack of supervision over bad characters in spite of police being augmented by three police posts."

1907. *Criminal Administration Report* :—"The Sessions Judge, Peshawar, is inclined to attribute the increase of burglaries to lax supervision on the part of police. The Judicial Commissioner concurs in that view."

1908. *Sessions Judge, Peshawar* :—"Right persons are not placed on security. Only the small uninfluential men have been hunted out. Their protectors have escaped."

1905. *Police Report* :—"Out of 19 dacoities, 9 were committed by outlaws and 9 are shown as having been committed by British subjects. This is an unsatisfactory feature and shows lack of police supervision over bad characters in spite of the police force being augmented by three punitive posts."

1909. *Police Report, Review by Chief Commissioner, paragraph 10* :—"The Chief Commissioner is concerned to see that there has been a steady deterioration in police working since 1906, the percentages of conviction to the true cases investigated for the quadrennium are 44·3, 41·9, 38·6 and 34·5."

1910. *Chief Commissioner's Review* :—"The steady decline in police working from the percentage of 44 in 1906 to the present figure 33 must be viewed with some concern. The poorness of present results as compared with that of the previous year, is both disappointing and puzzling and the conclusion must be voiced that detective ability has not advanced *pari passu* with that of police efficiency."

1910. *Criminal Administration Report, Chief Commissioner's Review* :—"In Peshawar there has been a marked increase in cases of murder, culpable homicide, thefts, robberies and dacoities. As to the extent to which the trans-border men are responsible for the Peshawar crimes of the year, it must be remembered a great many heinous crimes in which trans-border men are concerned have to be filed as untraced and the offenders are never brought to trial."

1911. *Criminal Administration Report, Judicial Commissioner* :—" The number of offences reported during the year was the largest recorded since the creation of the province. The situation cannot be described as otherwise than disquieting. It is a regrettable feature that crime of the more violent type has shown a progressive tendency to expand. The number of murders in 1904 rose from 141 to 317 in 1910. Attempts at murders have increased. Burglary is more rife than at the commencement of the decade. In view of these outstanding facts, it must be admitted that crime is spreading. The most potent cause of the present condition is that a great part of the crime goes unpunished. The obvious inference is that our present machinery, police as well as judicial, is not fully adapted to the conditions of this province."

1913. *Police Report, Chief Commissioner's Review, paragraph 18* :—" A great deal has been said and written about the unsuitability about our law and procedure. The chief reason for the progressive deterioration in police working as judged by these statistics is the serious and growing lack of intimate local knowledge without which successful detection is not possible, and which the police formerly possessed in a marked degree."

1912. *Chief Commissioner's Review of Criminal Administration Report* :—" The immunity from punishment enjoyed by criminal and more particularly by murderers cannot but have disastrous effect on potential law-breakers."

Police Report, Chief Commissioner's Review, paragraph 18 :—" The chief reason for progressive deterioration in police working as judged by these statistics is the serious and growing lack and which the police formerly possessed in a marked degree."

1917. *Criminal Administration Report, Judicial Commissioner* :—" An outstanding phenomenon of these reports in criminal justice is the recurrence of crime year after year in only slightly varying volume. It seems to be accepted as axiomatic that a more or less normal crop of offences must be expected year after year."

1919. *Chief Commissioner's Review of Criminal Administration Report* :—" The year was marked by a very large increase in the incidence of crime. Cases of murder rose from 317 to 445, kidnapping from 54 to 119, dacoity with murder from 17 to 93, and without murder from 93 to 410. There was also a serious increase in the number of cases of rioting, attempted murder, aggravated hurt, etc. Severity of punishment has no tendency to reduce crime when a large number of offences invariably go unpunished."

Judicial Commissioner :—" Murders and dacoities are the highest on record ever chronicled. Cases of kidnapping more than doubled and there was a large increase in cases of criminal trespass resulting in death. As regards dacoities, it is unquestionable that border conditions have proved the strongest factor in their expansion."

III.—Transfers of officers too frequent.

1908. *Sessions Judge, Peshawar* :—" Changes amongst Police officers have been unduly frequent and a good deal of house-breaking is attributable to their want of knowledge of the thana."

1909. *Review of Police Report, paragraph 8* :—" It is significant that they years 1887 to 1892 and 1902 to 1905 which are two periods conspicuous in the criminal history of Peshawar for a fall in crime were years in which two successive sets of Deputy Commissioners and the Superintendent of Police were uninterruptedly together in the district and were able to apply a system of local knowledge, experience and influence towards the prevention and punishment of offences. The local Government will do its best to avoid frequent transfers of officers."

IV.—Constant references to Jirga.

1904. *Police Administration Report. District Magistrate, Bannu, reports* :—" There is no doubt a tendency which will have to be watched for the relaxation of efforts by Sub-Inspectors of Police when it appears that a case will have to be referred to the Jirga."

1901. *Judicial Commissioner's Review* :—" Any tendency on the part of the Police to slur over investigation in difficult cases without an energetic attempt to elucidate them, treating them as at any rate enough for a *Jirga*, should be summarily checked."

1903. *Criminal Administration Report, District Magistrate, Peshawar* :—" In spite of strict attention, both Magistrate and Police are apt at times to be careless and unthorough in working out cases."

1918. *Judicial Commissioner on Criminal Administration Report* :—" There is always a temptation for the Police to relax their efforts in cases in which a conviction by a regular force is uncertain and to trust to the council of elders to remedy their want of success."

1920. *Chief Commissioner's Review of Criminal Administration Report* :—" The more serious danger is that the Police will become discouraged and ineffective in their investigation of crime. It has been the custom in the past for the Police to earmark a particular case as suitable for the *Jirga* and then to leave the *Jirga* to arrive at the truth without any assistance from the Police in the sifting of evidence. The Chief Commissioner trusts that the Inspector General of Police will impress on his investigation staff that the extension of the *Jirga* system of trial does not warrant any relaxation of efforts on their part."

V.—Outlawry.

Criminal Administration Report, District Magistrate, Kohat :—" It is hardly necessary to point out that the facilities for escape afforded to offenders by the proximity of the border line offers a strong incentive to intending criminals in Kohat and so long as the present condition exists, it will remain an adverse factor in the criminal administration of the province. The outlaws' life offers positive attraction to some adventurous spirits of the Khattak Illaqa they have only to pounce on an unprotected Hindu in British Territory. Such enterprises in Khattak country have little more than a spice of danger. The border Military Police are few and far between. The Police are weak and villagers indifferent."

District Magistrate, Peshawar :—" The depredations of various notorious outlaws and the general insecurity occasioned by their successful raids afford a convenient cloak to the enterprises of the criminal and disaffected amongst our own subjects."

District Magistrate, Kohat :—" The outlaw pest is a curse to the community. The Khattak outlaws settled in Khost have been the terror of the country side and short of a ring of posts among the exposed border, it seems impossible to keep them out of the district."

Deputy Commissioner, Kohat :—" So long as the life of a proscribed offender offers the attractions it does at present, to that extent must be expected to see adventurous spirit among the turbulent Khattak community gratifying their vindictive instincts by murdering their enemies. The career of the border robber offers an easier means of subsistence than honest labour in the country of exile and the result is that British territory becomes the happy dumping ground of its quondam residents."

1908. *Chief Commissioner on Criminal Administration Report* :—" Number of offences reported and unreported is the highest on record since the foundation of this province. For this the large depredation of various gangs of outlaws are chiefly responsible."

District Magistrate, Kohat :—" The outlaw pest is a curse. The worst offences should be put down to these marauders. I believe in the better armament of the population and the organization of the Chiga system."

1909. *District Magistrate, Kohat* :—" The abduction of rich Hindus is an enterprise to which the Khost outlaw gangs devote their energies."

The Chief Commissioner on Police Administration :—" The only disturbing elements have been the depredations of the outlaws who reside beyond the limits of the British jurisdiction and the unsettled conditions of the Mahsud tribes."

1910. *Chief Commissioner on Criminal Administration Report* :—"Outlawry has now greater attractions than in the past. If, as has been remarked by the Sessions Judge, Peshawar, in connection with the increase of violent crimes in the province, the coincidence of a general rise in crimes with greater facilities for repatriation of outlaws is significant. It must be admitted that decrease in the most serious form of Frontier crime also merits notice."

1912. *Criminal Administration Report. Sessions Judge, Peshawar* Mr. Rennie :—"The most disquieting feature of the year was the alarming increase in the violent crime. That serious crime is on the upgrade cannot be denied. And this is due doubtless as remarked by the District Magistrate, to the unconcern with which outlawry is looked upon and to infrequency of death sentence. Political considerations do make it desirable in recognition of Pathan sentiment to permit repatriation of outlaws and if repatriation has been made easier, it is not without significance that the policy should coincide with a general all-round increase in crime."

1916. *Criminal Administration Report. District Magistrate, Bannu* :—"It is clear that outlawry has not the terrors it once had and that at the slightest provocation a murder is committed and the murderer gets across the border. Until Government insists on no outlaw remaining within 20 or 30 miles of the Frontier, outlawry will be regarded with composure."

VI.—Want of help from local villagers and Khans.

Inspector General of Police, 1904.—

Police Report: 1904, District Magistrate, Peshawar, remarks :—"In this particular form of crime hardly a single dacoity committed by these gangs in 1904 or 1905 can it be said that the dacoities have not been actively assisted and guided by bad character, and spies and abettors residing within the district and here it is the business of the local police to effect an improvement.

No gang of trans-border dacoits can penetrate the district, pick out the houses of the rich Hindus, and terrorise villagers and Police outposts without connivance and active assistance of cis-frontier dacoits. This is admitted on all sides and yet in only a very few cases can the Police, after the commission of a dacoity, even hint at the names of persons of cis-frontier who acted as spies and abettors."

1906. *Criminal Administration Report* :—"Therefore there is no doubt that some of our own subjects facilitate the operation of these outlaws gangs in British territory by furnishing them with food, shelter and secret information."

1907. *Police Report* :—"The position from the Police point of view is rendered all the more difficult by the fact that the outlaws have numerous friends and sympathisers within the district and thus find shelter and protection during their marauding expedition."

District Magistrate, Bannu :—"I think that material assistance can be rendered by all officers in charge of Police stations in ascertaining and closely watching the sepoys and accomplices of outlaws in British territory. It is notorious that previous to raid the ground is reconnoitred beforehand and that the raiders are rarely without abettors amongst the inhabitants of a locality in which a raid occurs."

1907. *Police Report: District Magistrate, Kohat* :—"Relatives of outlaws have been put on security. Big rewards have been offered; proceedings have been taken against persons suspected of harbouring outlaws. Small isolated bands where the gangs get food and information by terrorism, are in some cases to be removed and so on. Still the activities of the gangs goes on almost unchecked. It may be mentioned that they are encouraged by the Khost authorities and the Khost population furnishes many recruits."

1909. *Criminal Administration Report. Mr. Barton, District Magistrate, Kohat* :—"The abduction of rich Hindus is an enterprise to which the Khost outlaws gangs devote their energies. The Pathan villagers have not rendered themselves conspicuous for assistance given on such occasion and as a rule they can find themselves to a perfunctory Chiga with absolute avoidance of risks."

"The Sessions Judge clearly remarks the unfortunate people have no choice in the matter. They get little assistance from the Muhammedan villagers when many of whom no doubt share in the ransom and so far Government has been able to do little to help them. The Judicial Commissioner agrees with the Sessions Judge."

The District Magistrate, Bannu, remarks :—"Resort to drastic measures against the tribes in sympathy with the outlaws became imperative and under the order of the Chief Commissioner the relatives of some of the principal Malikis were arrested and sent to Peshawar in order to arouse these chiefs to a sense of their sensibility in checking the intrusions of the marauders from across the Frontier. This measure was successful and as a result many of the kidnapped Hindus were brought back by the Malikis. The hostages were afterwards released."

*1912. Criminal Administration Report :—*The Sessions Judge, Peshawar : "There is reason to believe that in many cases the burglar and the thief have many of the Khans and the leading Malikis on their side."

1916. District Magistrate, Peshawar :—"The state of affairs which could not have existed without passive and active help of residents of the district at the end of the last year was, to say the least of it, deplorable. Hindus had fled across the river. Local bad characters banded together and raided like Mahsuds."

1919. Criminal Administration Report. District Magistrate, Kohat :—"An unsatisfactory feature has been the fact that the trans-border gangs have been able by harbourage and food afforded by British subjects to penetrate into the far eastern tracts of the districts. This is largely due to the co-operation of Khattak outlaws who reside with Wazirs and who are able to arrange for the assistance of their relations in British territory."

1920. Chief Commissioner : Criminal Administration Report :—"The proximity to the borders renders it necessary to permit wide distribution of arms for purposes of self-defence. The public opinion views with comparative indifference crimes however violent committed in conformity with tribal customs."

The Judicial Commissioner :—"The hostile attitude of tribes reacted on the people as a result of the close ties of kinship which unite the cis and trans-border men. It is also axiomatic the trans-border offenders cannot operate without the help of local confederates whether induced by terrorism, sympathy, self-glory or the hope of plunder. It is not surprising the previous record of many crimes of serious nature were altogether eclipsed."

ANNEXURE D.

(1) *The Manshera reference to Jirga, Application.*

Copy of Khan Bahadur Muhammad Hussain Khan's application for sending his case in the Jirga.

To

THE DEPUTY COMMISSIONER,

HAZARA.

SIR,

Being heavily in debts, I applied to the Government for help and was granted 300 cheer trees. The trees were sold by proper public auction, and the defendant bid an auction of Rs. 72 a tree on 12th March 1920 and promised to pay the money by instalments. But the defendant did not credit the first instalment in the Treasury though several reminders were sent to him by the Deputy Commissioner's Court. During the time after the auction he was hesitating the bid and then at last refused his auction. On which a 2nd auction was held and in that the trees were sold by Rs. 42 per tree on 6th November 1920. In this way I suffered a loss of Rs. 30 per tree beside this I also suffered a loss of interest due to my claimants as the defendant did not credit the first instalment in time. Therefore the plaintiff is entitled to recover Rs. 10,000 from defendant as loss including interest. The notice has been given to defendant but he denies.

The plaintiff was given the trees only to remove debt but the defendant has totally ruined me by breaking the auction, now I am and cannot claim this case in civil court, owing to much trouble. I therefore beg to request that my case be decided in the *Shahi jirga* by 8, Frontier Crimes Regulation, and grant me a decree of Rs. 10,000 against defendant.

(Sd.) K. B. MOHD. HUSSAIN KHAN,

The 11th May 1921.

Honorary Magistrate, 1st Class, Mansehra.

(2) Deputy Commissioner's order.

IN THE COURT OF THE DEPUTY COMMISSIONER, HAZARA.

Case No. of 1921.

K. B. Mohammed Hussain Khan of Mansehra Plaintiff,

versus

Prithmi Chand of Baffa Defendant.

Claim for Rs. 10,000.

Order.

K. B. Mohammed Hussain Khan of Mansehra' Plaintiff,

versus

Prithmi Chand Defendant.

Claim for Rs. 10,000.

The facts of this case are given in detail in Extra Assistant Commissioner, Mansehra's note, dated the 10th July 1921. Briefly, they are to the effect that plaintiff K. B. Mohammed Hussain Khan sold a large number of trees from his Guzaras to the defendant Prithmi Chand at a certain rate and on certain conditions in regard to payment of instalments. This transaction was conducted as is usual in such cases under the orders of the Deputy Commissioner. A sale was conducted by the Treasury Officer and the defendant's bid being highest, the contract was given to him. The proceeds were to be utilised in paying off the plaintiff's debts.

Prithmi Chand failed to carry out the conditions. The plaintiff has now claimed a sum of Rs. 10,000 as damages for failure to carry out the contract.

The suit, in my opinion, was one which could best be decided by *jirga* because the conditions of forest exploitation are very intricate and involved, but well known to the local Khans who themselves own forests and trade in timber. In addition, the plaintiff, a local Khan of standing and importance, was much incensed at the questionable conduct of the defendant and a breach of the peace was not improbable. The defendant is also of the Mansehra Tahsil.

Accordingly under Section 8 of the Frontier Crimes Regulation, I directed, that the issues framed by the Lower Court should be placed before the next *Shahi jirga*, vide my order, dated the 8th August 1921, on which the Hindu element would, in usual course, be fully represented. The issues in question were :—

- (a) Has the defendant committed a breach of contract in regard to the sale to him of trees by the plaintiff and if so, is the latter entitled to compensation ?
- (b) To what extent, if any, do the various orders on the file, passed by the Deputy Commissioner, relieve the defendant from the responsibility of carrying out in the terms of his contract ?
- (c) To what relief is the plaintiff entitled and how should it be granted ?

A large and representative *Shahi jirga* (names of members attached) has to-day given its finding on these issues. It is to the effect that the defendant is liable for Rs. 5,000 damages as against Rs. 10,000 claimed. They recommend that this sum be decreed and that it should be paid within a period of four months.

I have discussed the case fully with the members of the *jirga* in the presence of the parties and have heard their statements. The defendant does not agree to the finding on the ground that he had gone into partnership with certain other Hindus who agreed jointly to exploit the timber in question and that they had failed him. It was pointed out to him that this had no concern with the present plaintiff but that defendant was at liberty to institute a suit against the other Hindus should he be so inclined.

Further he claimed to be exempted from all liability in the matter on the strength of an order dated the 24th November 1920 by the Deputy Commissioner. It was pointed out to him that the order in question which in fact was no order but merely an expression of opinion on a question raised by the plaintiff during the course of negotiations, did not bear the meaning which defendant attached to it as the context alone shows.

In the circumstances I am satisfied that the *jirga* have come to a correct finding in this case. Accordingly under Section 8, Frontier Crimes Regulation, I pass a decree of Rs. 5,000 in favour of plaintiff as against the defendant. This sum to be paid within a period of four months and respondent to give the necessary surety that the terms will be carried out.

Announced in open *jirga*.

(Sd.)

The 5th November 1921.

Deputy Commissioner, Hazara.

(3) *Reference to Jirga.*

Copy of order by Deputy Commissioner, Hazara, dated the 5th November 1921, with the file No. 7-8 in the Court of Judicial District Magistrate, Mansehra.

Khan Bahadur Mohamed Hussain Khan of Mansehra, Jagirdar
Plaintiff,

versus

Prithmi Chand Shah Sethi of Baffa, Tahsil Mansehra Defendant.

Suit for the recovery of Rs. 10,000 on account of decree in price of trees as well as interest and compensation thereof.

The facts of the case are as follows : —

That three hundred trees were granted to Khan Bahadur Mohamed Hussain Khan of Mansehra from Guzara Sum Haliemang. These trees were auctioned by the Treasury Officer, Hazara District. The highest bid of Rs. 72 per tree was made by Prithmi Chand of Baffa. Accordingly the auction was declared in his favour on the 14th April 1920. He was ordered to deposit the money. The summary of his report, dated the 21st April 1920, is to the effect that he would pay the money and obtain the permit in November 1920. As he had to pay the money earlier, so the orders were again issued. He again states on the 12th September 1920 that he would bring the money in the court to settle the matter at the end of the month. On the 13th September 1920 he submits an application stating that he would pay the money at the end of the current month. But he evaded the payment. In default of payment, notice was served on him that he should pay the first instalment of Rs. 7,200 within 15 days, otherwise the trees would be resold and he will be held responsible for the loss. But in spite of the receipt of notice he made no payment. An order was made on the 24th November 1920 that if the trees were resold, the former contractor Prithmi Chand shall have to make the loss. As he had deposited no advance so a civil suit had to be instituted against him. Consequently the trees were resold and Prithmi was present there.

This shows that the resale took place in his presence. In the second sale, the highest bid was Rs. 42 per tree. Thus a loss of Rs. 9,000 was sustained on

account of resale. No orders were anywhere given in this file that Prithmi Chand is to make good the loss in the second sale. As it was a private affair of Khan Bahadur so he should himself seek the remedy and the Government has nothing to do in the matter.

Now Khan Bahadur Mohamed Hussain Khan applies under Section 8, Frontier Regulation Act. In this application he makes mention of Rs. 1,000 as interest and compensation in addition to Rs. 9,000. Section 8, Frontier Regulation Act is correctly applicable in this case. So both the parties are the residents of this district and in our opinion the case is one which should be decided by custom and not by a civil court. Therefore we refer the suit to *Shahi Jirga* with the direction that it should be decided after going through the file and reading this note. The parties should be informed to present themselves with their proof.

Dated the 30th July 1921.

Note.—The orders have been issued.

(Sd.)

Deputy Commissioner, Hazara.

D.

(4) Execution Order.

Copy of an order by Deputy Commissioner, Hazara, dated the 10th April 1922.

Crown through Khan Bahadur Mohamed Hussain Khan of

Manshra *decree-holder,*

against

Prithmi Chand of Baffa *Judgment-debtor.*

For the recovery of Rs. 5,000 under Section 8, Frontier Regulation Act.

I have gone through the original file and the result of the revision. The revision in favour of Prithmi Chand has been rejected. Hence the defendant should be summoned.

Moreover the original order should be sent to the Extra Assistant Commissioner, Manshra, to carry out the execution. He should also be ordered that in compliance with the orders of this Court and those of Chief Commissioner, the defendant should be summoned to pay the money as the time granted to him for payment has expired.

In the case of non-payment he should be confined in "Political Havalat."

(Sd.)

Deputy Commissioner, Hazara.

Minute of Dissent by Mr. N. M. Samarth.

I regret I cannot conscientiously agree with my colleagues of the majority in the recommendations which they have thought fit to make on the Committee's terms of reference. The differences between them and the minority, consisting of Rao Bahadur T. Rangachariar and myself, are fundamental and radical. Rao Bahadur T. Rangachariar has written a comprehensive report, which he had kindly sent me for my perusal. The recommendations embodied therein and the grounds on which he has based them have my general concurrence. I think it necessary, however, to deal at some length with a few crucial points and to set forth my reasons for urging that the Government of India and the Secretary of State for India should reject the recommendations which the majority have made on the main points at issue and accept the solution which the minority recommend as the right solution of the problems involved in the terms of reference.

2. I oppose the main recommendations of the majority chiefly on the grounds that they are—

- (a) politically unwise ;
- (b) constitutionally extravagant, incongruous and anomalous ;
- (c) financially objectionable as involving an increasing burden on the resources of the Central Government ; and
- (d) administratively, as also for the purpose of real and effective political control of the trans-border tribes, unsuited and insufficient to meet the imperative necessities of the case.

From the point of view of all-India interests, external and internal, it would be, I submit, politically unwise to perpetuate this Pathan Province as a separate Province—*a fortiori*, to allow it to develop into what will ultimately be an autonomous Pathan Province by itself, if the recommendations in that behalf of the majority of the Committee, based avowedly on the “the Pathan's self-determination for self-development in a separate Province” are given effect to.

4. It is surprising to see the majority report condemning the view of the minority on this subject as “baseless”. The minority contend that their view is not only well-founded but amply justified by the record before the committee and other available authoritative material.

5. What are the conditions to be taken into account in connection with the North-West Frontier Province, the trans-border tribes and Afghanistan ? They can hardly be described more graphically or forcibly than in the following extracts from the views of the Chief Commissioner and other British officials of the Province.

Here are some of the observations of Sir John Maffey, the Chief Commissioner of the Province:—

“The people living on each side of the border are the same people, many of them have homes on both sides of it ; they are closely related by blood, and in custom and sentiment they are one. These people, both cis and trans-frontier, are the same people, and all of the same strongly marked ethnic type—the Pathan.” (Vol. I, page 107, paragraph 1.)

“With the expansion of the Pan-Islamic and of Bolshevik influences the menace of the frontier for India as a whole has become greater.” (Vol. I, page 109, paragraph 6.)

“The whole border, both cis and trans-frontier, should be regarded as one—and for reasons (community of race, religion, customs and sentiments of its inhabitants) already indicated above.” (Vol. I, page 109, paragraph 6.)

"The frontier may be regarded as in a state of siege. Popular Government, even to the extent to which it has developed in other parts of India, I consider unsuited to the peculiar needs of the borderland." (Vol. I, page 112, paragraph 15.)

"Little more than one hundred years ago, the place where we are to-day (Peshawar) was the Afghan winter capital. It is a part of old Afghanistan. In those Afghan days there was no distinction, in the matter of control, between the districts of this Province and the trans-border tracts. Historically and ethnically they are one" (Vol. I, page 121.)

"Take, for example, the Khilafat agitation. These trans-border tribes are very fanatical in their religious susceptibilities." (Vol. I, page 122.)

"There are certain special dangers in the situation here; and if the reforms are to go ahead, if India is to prosper, one thing it seems to me which India has to keep her eye on is the state of order on the frontier in view of the turmoil which you can easily get by a rash move here,—serious trouble which might end the reform movement in India. * * * The whole conditions here are very electric and you are face to face with serious dangers." (Vol. I, page 152.)

Mr. S. E. Pears, I.C.S., Resident in Waziristan, thus describes the characteristics of the Province and its Pathan population:—

"We are dealing with a province which is mainly Pathan in constitution, where a blood feud is endemic, where the people are very quick to anger just as they are quick to good temper, violent crimes are frequent, raids take place, murders are committed." (Vol. I, page 763.)

Mr. E. H. Kealy, I.C.S., who is now Officiating Resident at Gwalior but who was Secretary to the Chief Commissioner, North-West Frontier Province, in the time of Sir George Roos-Keppel and Sir Hamilton Grant for five years, 1915—1920, and until recently—up to March 1922—Divisional and Sessions Judge in both Divisions of the Province, observes:—

"The frontier is always a powder magazine, and even at the cost of sacrificing the ideas of theoretical liberty, it is essential to keep the match away from the powder. The Province must suffer (if indeed this can be called suffering) in this respect in the cause of Imperial India." (Vol. III, page 91.)

The evidence of Mr. J. M. Ewart, I.P., of the Intelligence, Bureau, North-West Frontier Province, regarding the ever-present danger on the frontier and its liability to sudden conflagration, was still more significant * * *

So also Major C. G. Crosthwaite, O.B.E., L.A., Deputy Commissioner, Peshawar, observes in his memorandum:—

"The tribesmen now partially know their power and also have dim aspirations, as yet scarcely formulated. Revolutionary *foci* are situated in various places to point out their power and to crystallize their aspirations.

The result is that sudden crises are far more apt to arise now than they were 20 years ago." (Vol. III, page 103.)

6. Having regard to the character and nature of this "powder magazine," where "the conditions are very electric" and we are said to be "face to face with serious dangers," and having regard also to the fact we are asked to bear in mind that "the menace of the frontier for India as a whole has become greater with the expansion of Pan-Islamic influences," it is worth inquiring what is the mentality, the psychology, the objective of Pan-Islamic Pathans?

The answer to this question will be found in the evidence given by a well-educated and remarkably outspoken Pathan of wide experience and knowledge. He thus described his position and status :—

*"I belong to this province and am a Pathan. I have experience of Persia. For three years I was in Consular service as Assistant to the Consul in Sistan in Persia. From there I returned as Personal Assistant to the Chief Commissioner, Baluchistan, and I have experience of the whole of Baluchistan. During that period I was Attaché with the Afghan Prince Inayatulla Khan and interpreted between Lord Curzon and the Prince. * * * Subsequent to that when it was proposed during the Amir's presence in India to send Sirdar Ayub Khan, brother of the ex-Amir, who is dead now, to Japan, I was Assistant Political Officer with him. When I returned from there I was Assistant Political Officer with the ex-Amir Yaqub Khan. I have experience of the entire Afghan family. Besides being an Afghan myself, I know most of the magnates of Kabul. I was British Representative at Kandahar. * * * I have experience of Baluchis and Afghans and I know Brahoi and Baluchi. In this case not only do I know the Afghan across the border but the people of the independent territory too."* (Vol. I, page 727.)

There was not before the Committee another witness who could claim to speak with the authority of personal knowledge and experience of not only the North-West Frontier Province and Independent territory but Baluchistan, Persia and Afghanistan, which this witness could justly lay claim to. It is noteworthy that he appeared before the Committee as a witness in his capacity as "President, Islamic Anjuman, Dera Ismail Khan." This witness (Khan Saheb Sardar Muhammad Gul Khan) was asked by me: "Now, suppose the civil government of the Frontier Province is so modelled as to be on the same basis as in Sind, then this Province will be part and parcel of the Punjab as Sind is of the Bombay Presidency. What have you to say to it?" He gave me, in the course of his reply, the following straight answer: "As far as Islam is concerned and the Muhammadan idea of the League of Nations goes, I am against it." On this answer, I asked him some further questions to which he gave me frank, outspoken replies without mincing matters. I extract the pertinent portions below :—

Q.—The idea at the back of your Anjuman is the Pan-Islamic idea which is that Islam is a league of nations and as such amalgamating this Province with the Punjab will be detrimental, will be prejudicial, to that idea. That is the dominant idea at the back of those who think with you? Is it so?

A.—It is so, but I have to add something. Their idea is that the Hindu-Moslem unity will never become a fact, it will never become a *fait accompli*, and they think that this Province should remain separate and a link between Islam and the Brittanic Commonwealth. In fact, when I am asked what my opinion is—I, as a member of the Anjuman, am expressing this opinion—we would much rather see the separation of Hindus and Muhammadans, 23 crores of Hindus to the South and 8 crores Muslims to the North. Give the whole portion from Raskumari to Agra to Hindus, and from Agra to Peshawar to Muhammadans, I mean trans-migration from one place to the other. This is an idea of exchange. It is not an idea of annihilation. Bolshevism at present does away with the possession of private property. It nationalizes the whole thing and this is an idea which of course appertains to only exchange. This is of course impracticable. But if it were practicable, we would rather want this than the other.

Q.—That is the dominant idea which compels you not to have amalgamation with the Punjab?

A.—Exactly

* * * * *

Q.—When you referred to the Islamic League of Nations, I believe you had the religious side of it more prominently in your mind than the political side?

A.—Of course, political. Anjuman is a political thing. Initially, of course, anything Muhammadan is religious. but of course Anjuman is a political association.

Q.—I am not referring to your Anjuman but I am referring to the Mussalmans. I want to know what the Mussalmans think of this Islamic League of Nations, what have they most prominently in mind, is it the religious side or the political side?

A.—Islam, as you know, is both religious and political. * * *

Q.—Therefore politics and religion are intermingled?

A.—Yes, certainly."

(Vol. I, pages 729 and 730.)

7. With politics and religion intermingled in the Pan-Islamic idea of an Islamic League of Nations, which is presumably entertained by many Pathans of the Province, — with the easily corruptible material of the trans-border tribes, of whose susceptibility to outside intrigues and religious fanaticism we had so much evidence adduced before us, and with the Pathans of the province being "historically and ethnically" one with them, what will be the result of "giving scope", as the majority propose to do, "for the self-development of the Pathans" in a separate Province of their own,—in other words, what will, in all probability, be their course of action if they are permitted to be politically masters in their own house? Will they identify themselves with the rest of India and all-India interests, or, will they not strive to realise their dream of the golden past, when, as Sir John Malley has put it, some of the frontier districts were part of old Afghanistan and Peshawar was the Afghan winter capital?—"Peshawar that jewel in the plain," as Mr. Ewart says in his booklet, "which was and perhaps still is, the desire of every Afghan ruler's heart". Here is the answer to that question by Maulvi Nur Buksh, B.A., LL.B., of Dera Ismail Khan:—

"The Frontier Province lies on the outskirts of the two great States of India and of Afghanistan. The Pathans who mostly inhabit the province are not an Indian race. * * * Like the well-known Powindas, there are still many mountaineer tribes who flood the province during the 6 cold months of the year. But for the British, many of these would have preferred to take forcible possession of the fertile plain country and make it their permanent home in preference to the black and barren hills, where life is so precarious. In spite of the comforts of the plains, the Pathan has, however, a deep natural love lurking in the inner depths of his heart towards the romantic hills which remind him of his golden past when he was full master of his own will. As a matter of fact, the Pathan considers himself more to belong to the hills than to India. He has more sympathies with his kith and kin of the trans-border than with the Punjabis or the rest of the Indians. A Pathan would never consent to being called anything less than a "Pathan." It is a question whether he can be Indianized at all." (Volume I, page 627.)

But whether the Pathan can be "Indianised" at all or not, one thing is certain that my colleagues of the majority do *not* want him to be Indianised, as he would be, by being brought under the broadening and unifying influences of a common administration which would make him and the Punjabi work together as fellow-Indians in a common cause. Their proposals are calculated not only to perpetuate his isolation and accentuate his Afghan proclivities but,

by enabling him to give free scope to his "historical and ethnical" ties and sympathies, to facilitate the fulfilment of "the desire of every Afghan ruler's heart" to regain his lost possessions and make Peshawar his winter capital once again.

8. But our colleagues of the majority ask, "Did the Frontier Province fail India in the stress of the Great War" or "in the storm of the Afghan war" and think "it is not wholly visionary to hope" that if "one-half" of the Pathan race, namely, that of the settled districts, were given "self-determination for self-development in a separate province," the other half of the Pathan race, by which they mean the trans-border tribes in the unadministered tracts, which along with the former "holds the ramparts" for India, will, by being gradually civilized, "join hands" with the Pathans of the province as "a strong and contented community at the danger-point of India's frontiers" and the two together will form "a barrier against all possible enemies from the west." (*Vide* paragraph 28 of the Majority Report.)

9. The majority are laying too emphatic and exaggerated stress on the absence of any grave situation created against Government by this one-half and the other half of "the Pathan race" during the Great War. It is too much to attribute it altogether to disinterested loyalty on their part. The chief cause, as the Foreign and Political Department of the Government of India surely knows, was the great help that was given to the British Government by the late Amir, Habibulla Khan, of Afghanistan, who, throughout the Great War, faithfully adhered to his treaty obligations and, although urged on to do so, resolutely declined to proclaim a "Jihad" against the British Government. If he had unfortunately done so and raised the religious war-cry against "the infidel" and in spite of it the one-half and the other half of the "Pathan race" had remained firm and loyal to our cause and not relinquished "the ramparts" of India to let in the Afghan invader, the majority's view would have had some justification. But, even as things stood, was it in reality such a clean and heartening record on their part, during the Great War and the Afghan war of 1919, as to warrant the confident inference on which the majority have based, what I cannot help saying, their fanciful view and "visionary hopes", opposed to all lessons of history? Here are some extracts, which will throw light on the subject.

Mr. Ewart, in his booklet "The Story of the Frontier Province," which was prepared in connection with the visit of His Royal Highness the Prince of Wales early this year, has given the following insight into the situation in Chapter IV "The Frontier and the War" and in Chapter V "The Aftermath":—

"The Independent Tribes * * * were necessarily an uncertain quantity. They looked to Kabul for a sign, and received it in the Amir's open avowal of complete neutrality" (page 35).

"The Amir's reiterated declaration of neutrality and condemnation of the bellicose folly of the Turks was of incalculable value. Still, the situation in the tribal territory was anxious in the extreme. The outbreak of war had, fortunately, found no ready lit fire which could be quickly fanned to a blaze, but from the first moment fanatical Mullas and the anti-British party in Kabul had been doing their utmost, though without cohesion or settled plan, to stir up trouble" (page 36).

"In April 1915 the Mohmands, the most priest-ridden of all the tribes, started the campaign by an attack on Shabkadr. They were repulsed, but not defeated, and trouble spread. * * * The summer of 1915 saw serious risings on the Buner border, in the Malakand and on the Mohmand line. The latter led to serious fighting and necessitated the blockade of the whole tribe. The concluding months of 1915 were the most critical of the whole war on the Frontier" (page 38).

"By 1916, however, we were again strong in actual military resources. Masses of white tents convinced the boldest that we had more troops than we could house; the drone of aeroplanes in the sky

and the hum of motor transport on the roads were an impressive novelty and above all, the remarkable staunchness of one of India's greatest benefactors in the war, Amir Habibullah Khan, checkmated the efforts of those who would have made catspaws of the tribes by tales of the coming again of one the old-time invasions from the North and West" (page 39).

"The Indian Army had, before the war, drawn largely on the fighting races of the Frontier. Under stress of circumstances, already related, the classes enlisted from Independent Territory had proved unreliable and had been discharged" (page 40).

"It would be misleading to attribute this tranquillity entirely to disinterested loyalty or exceptional political acumen" (page 41).

In the Afghan war of 1919, the serious situation which arose is described in Chapter V. Immediately the Afghan advance took place in the region of Thal, "our Militia garrisons of the Upper Tochi and other outlying posts" were "withdrawn to Miranshah".

"This was followed by the withdrawal from Wana and the Gumal."

"The Afridis of the Khyber Rifles had wavered from the start and the corps was disbanded to forestall a mutiny. In Waziristan, when the withdrawal took place, mutinees occurred both at Miranshah and Wana. * * * Wana and the posts of the Gumal route were evacuated in face of opposition both from mutineers and tribesmen, and the loyal portion of the Wana garrison, retiring on Zhob, was severely handled and had practically all its British officers killed or wounded. Darwesh Khel Wazirs and Mahsuds finding the omens of victorious "Ghaza" too clear to be ignored, were ready to rise *en masse* had any further Afghan backing been forthcoming. As it was, the country was flooded with deserters with the rifles and ammunition they had taken with them and raiding and attacks on pickets started on an intensive scale in the Derajat and in Peshawar, where the state of the Afridis was much the same as that of the Wazirs."

Meanwhile on August 8th a treaty of peace with the Afghan Government was concluded at Rawalpindi. But we were left with a border in a state of turmoil from the Khyber southwards and the residents of four of the five settled districts with the added grievance of insecurity from raids" (pages 44 and 45).

I have been shown an authoritative document which gives an instructive description of the situation during the third Afghan War of 1919. It appears that in Waziristan the tribesmen were almost all in open revolt and that our plans were upset by the mutiny of Afridi and Wazir militia men at Wana, who seized the fort together with all the treasure, ammunition and transport. The British officers and the small local remnant of the militia then retired *via* Toi Kulla to Mir Ali Khel in the Zhob. All the other posts in the Gumal were also withdrawn. Under the most difficult and trying circumstances the British officers of the militia, of whom five were killed, set an example of endurance and courage which has seldom been surpassed. Of the South Waziristan Militia only some 600 out of 1,800 finally reported themselves. We lost several hundred rifles and several hundred rounds of ammunition. The Wazirs and Mahsuds busied themselves looting the evacuated posts, and Jandola, garrisoned by regular troops, was invested by a large lashkar of Mahsuds under Fazl Din. The defection of the Mahsuds and Wazirs was not due to any particular cause; they were merely actuated by the belief, with which the borderland is imbued, that every true Muhammadan must rise and fight for Islam whenever a good opportunity offers for striking a blow at the infidel. Afghan adventurers turned this belief to full account. Moreover the defection of the militia had a very disturbing effect on the tribesmen. The many modern rifles and the great number of rounds of ammunition that had fallen into their hands naturally tended to embolden them, and it may safely be said that they had never been more truculent.

10. The extracts in the foregoing paragraphs speak for themselves. They show the recent conduct of those upon whom we are asked to rely for holding "the ramparts" for India and acting as "a barrier against all possible enemies from the west". The archives of the Foreign and Political Department must surely not be wanting in the writings of statesmen, administrators and soldiers of eminence and authority whose misgivings and warnings on this subject have been utterly ignored by the majority in the view which they are asking Government to accept. Even writers of the school opposed to what is known as the "Forward Policy" have warned us against our placing our trust in the Pathans as a class when it is a question of their fighting for us against their adjoining kinsmen of Afghanistan. The platitude that "mistrust breeds mistrust" cannot be allowed to override the stern realities of the situation. In the case of the vast bulk of the people, it is too much to expect political or military fidelity to outweigh tribal affinity and sympathy, the more so, when the Islamic religious war-cry is raised.

11. Even in the settled districts of the Province, the situation during the critical period was far from re-assuring when the Khilafat agitation and Hijrat movement were at their height. Peshawar was thrown off its balance and the infection spread southwards. "Tens of thousands of the inhabitants of the Province", writes Mr. Ewart in his book-let, "either performed or prepared to perform the 'Hijrat' to Afghanistan, in the belief that it was their religious duty" (page 49). "Unfortunately," he proceeds to say, "an agitation based on religion was bound to affect the peculiar temperament of the Frontier Mahomedan in ways not strictly religious. In Hazara, the unrest spread to the trans-border tribes, necessitating military operations to restore order. Throughout the Province and especially in Bannu, this agitation engendered a spirit of lawlessness and defiance of authority" (page 50). The same spirit of lawlessness and defiance of authority manifested itself recently in the city of Peshawar on two occasions, first, at the time of the Afghan War of 1919, and later on when His Royal Highness the Prince of Wales was at Peshawar. The President asked Sir John Maffey (Volume II, page 210), "May I put a question to you, Sir John? You were not here at the time, but when the Afghan war broke out or just before that, I think I am right in saying that the city was in a very ugly mood; riff-raffs got out of hand and very stern executive action had to be taken?", to which Sir John Maffey replied, "That was the case. Peshawar city may easily become very ugly under small provocation owing to its peculiar composition and situation. * * * In the year 1919 they had to place a cordon of troops round the city. They made a great many arrests". As to the grave situation of open insurrection created by a "Jehad" preached by a Maulvi in 1920 in the Mansera tahsil of the Hazara District and amongst the adjoining trans-border tribes, which necessitated military operations for four months, Lieutenant-Colonel E. H. S. James, who was then Deputy Commissioner of the District, has given a long and graphic account in his evidence (Volume II, pages 436-439), from which I quote only a few details which have a bearing on the point under consideration:—

"He (the Maulvi) presided over meetings of from 3,000 to 10,000 people, and on one occasion it was computed there were 20,000 people when he spoke. In the latter case the crowd was composed of men not only from most parts of the district proper, but also from trans-border. * * * From that time forward, things went ahead very fast indeed. The Mansera tahsil practically acknowledged no British rule. The villagers, especially in Dhudial and Shinkari, had appointed their own officials such as tahsildars and thanadars. They attempted to carry on the functions of administration and they certainly, on one or two occasions, assaulted Government officials who were carrying out their official duties. * * * The Maulvi himself (I mean Maulvi Muhammad Ishaq) kept a kind of royal court at Mansera where he was visited not only by a large number of people from the district, but from the trans-border tracts as well. He travelled about the whole district in state,

and held large meetings which he addressed. He even held meetings in Abbottabad itself and in the Haripur tahsil. By degrees the whole district population became permeated with his disloyal propaganda. It took the strongest hold on the people of the Mansehra tahsil and in the Agror valley, which, I think the members of the Committee know, marches with trans-border territory." (Volume II, pages 434-435.)

This would show to the Government of India and the Secretary of State some of the perils of accepting the majority's proposals based on the shibboleth of "the Pathan's self-determination for self-development in a separate Province "

12. As to the inadvisability of invoking and applying this doctrine of "self-determination" in the present case and the danger involved in it, Professor L. Gulshan Rai, of Lahore, who appeared before the Committee as a witness and had submitted to it a memorandum (*vide* Volume II, pages 715-719), on which he was rightly complimented by the President as having given to the Committee "a very careful note", "very interesting" and raising "many points which give food for thought," observed :—"It is dangerous to apply this principle when large numbers of such an ethnological group are also subjects of an adjoining foreign State. * * * In times of international crisis such an arrangement is bound to prove a source of grave national danger." (Volume II, page 717.) He was questioned on this point by my colleague, Khan Bahadur Abdul Rahim Khan, and he answered :—"Afghanistan is now free to make any alliance she likes. If she took it into her head to make an alliance with some Central Asian Powers adverse to the interests of the people of India, the people in both tracts, settled British districts and tribal, being kith and kin of the Pathans in Afghanistan and human nature being what it is, it is natural that at least the people of the three districts of Peshawar, Kohat and Bannu might effect a combination with the trans-border people and the people of Afghanistan. That is a great political danger which I would avoid at all costs". (Volume II, page 726.)

13. Having regard to the considerations urged in the foregoing paragraphs, the question which the Governor-General in Council and the Secretary of State have to consider is :—"Would it be wise to keep the Province as a separate Province and inaugurate therein the form of "Popular Government" which the majority have formulated?" The majority, to use their own words, "envisage the introduction into the Frontier Province of "full-fledged reforms" with "all the essentials in the reforms enjoyed by a major province" namely, a Legislative Council, which shall be "something live and vigorous", with an elected majority of at least 60 per cent., with "power over the Budget" (!) an Executive Council, and a Minister who shall be in charge of all such subjects as are transferred subjects in the Punjab. I have already quoted, in paragraph 5, the emphatic expression of opinion of Sir John Maffey that "the frontier may be regarded as in a state of siege" and that he considers "Popular Government, even to the extent to which it has developed in other parts of India" to be "unsuited to the peculiar needs of the borderland." In a note written by him on the 15th August 1921, which was placed before the Committee, he was still more emphatic. In that note he says :—"Unless the interests of "Indians" in the North-West Frontier are to be deliberately sacrificed, it must be a peculiar area in a constant state of military preparation and with conditions and executive measures utterly different from the Punjab. Tribal organization, "the highly-prized Pathan code and custom, etc., etc.," must not be atrophied and superseded by political reforms utterly foreign to Pathan character, incomprehensible to their feudal sentiments, and never seriously demanded except by irresponsible agitators." As to political reforms not being demanded by any but "irresponsible agitators", Sir John Maffey has by now probably changed his mind. But the point is that if the Province is to be regarded "as in a state of siege" or "in a constant state of military preparation" and to be kept under strong executive control with plenary powers to the executive under the *personal* administration of the Chief Commissioner and to be treated as unsuited to any real form of "Popular Government", in the sense in which Sir John Maffey has used that

expression, then no doubt it may be allowed to remain a separate Province as at present without appreciable danger. And that is, to my mind, the basic idea underlying the observations of the distinguished authors of the "Report on Indian Constitutional Reforms" in regard to the North-West Frontier Province and British Baluchistan. (*Vide* the concluding portion of paragraph 198 of the Montagu-Chelmsford Report.) But leaving that point aside for the present, the question is, where would the majority's proposals lead us? What would be the eventual culmination of giving effect to their doctrine of "the Pathan's self-determination for self-development in a separate Province?" Let the Government pause and think before they accept the majority's view on this subject.

12. Apart from this grave aspect of the majority's proposals, in regard to which I have been compelled to write at such length and give chapter and

Constitutional objections.

verse in justification of the minority's view as the majority have derided it as "baseless," there are other serious objections to those proposals. Constitutionally, the majority's proposals are, I submit, extravagant, incongruous and anomalous. The majority propose to keep the Province as at present directly under the Government of India and financially dependent on central revenues even in regard to its civil administration. And yet they propose to give to this small Province, of 13,419 square miles in area and having a population of only 22 lakhs 11 thousand 340, according to the census of 1921,—it could hardly be called a "Province" in the real sense of the term, having regard to its small area and population—a "full-fledged" constitution, "with all the essentials in the reforms enjoyed by a major Province"! Here is an interesting extract from the evidence given by Rai Bahadur Bhai Lehna Singh, Additional Divisional and Sessions Judge, Peshawar, who did the Census Report of 1921 for the Province :—

"Q.—(*By the President*).—You have given your view very clearly, but what about the clamour in the towns for re-amalgamation with the Punjab?"

A.—The satisfaction of those aspirations of the urban population means the grant, as one witness put it, of full-fledged reforms. Those full-fledged reforms cannot be carried out in a small province of which the population is equal to only three average districts of the Punjab. You cannot instal all the complicated machinery of the reforms in these districts. I have looked up the figures and I find that of the five Divisions into which the Punjab is divided, the population of one Division is more than double the population of these five districts; and of the other four a little less than double the population of these districts. No one can imagine for a moment that all these reforms can be introduced into this small tract of country which is inhabited by 22½ lakhs of people." * * *

"It is to me unthinkable that such a small province can have such a complicated system of reforms as the Punjab and other major provinces have. You cannot have that system here." (Volume II, page 111.)

The same is the opinion of non-official educated Muslims of the Province who have given thought to the subject. Khan Sahib Saduddin Khan, leader of the Peshawar Bar, giving evidence on behalf of the Bar, said :—

"We considered the question and arrived at the deliberate conclusion that a small province like this, if carried on as a separate entity, would never succeed. * * * The reforms would mean a top-heavy administration. * * * The reforms administration is a very complex machinery. You want perfectly free scope for its free working. Here you have five districts; Dera Ismail Khan has been reduced to one-half and Bannu to less than a half—and in a small province like this the paraphernalia of a reformed Council and the other concomitants cannot be accommodated" (Volume I, page 64).

Moreover, the extravagance of the majority's proposals will be apparent from the fact that the province has no elected Municipalities and Local Boards at all. In fact, what may be deemed as the necessary elementary material on which to found modern political institutions of even a modest type is sadly lacking in the province as a whole. There is no doubt a fairly large number of highly educated and politically minded men in the urban areas of the five districts. But the inherent disadvantages and defects of the smallness of the province and its lack of progress in local self-government can hardly be ignored in considering its fitness for a separate legislature of its own "with all the essentials in the reforms enjoyed by a major province," or, for the matter of that, for any separate legislature at all.

15. The proposals of the majority are thus not only extravagant but also incongruous and anomalous. It is difficult to understand how a province, the whole of which the majority think it necessary to keep directly under the Government of India, can have, with its financial dependence on central revenues, a Minister in charge of what are "transferred departments" in the Punjab, responsible to a local legislature which is to have "power over the Budget" (?) At present, the Legislative Assembly has power over all votable items of expenditure from the central revenues. Is that portion of the central revenues which is at present votable by the Legislative Assembly for the civil administration of the Province to be taken away, partially or wholly, from its purview by a questionable manipulation of items and figures of expenditure for the Province? If so the majority's proposals involve a serious in-road on the rights of the Assembly, which it will be justified in resisting and resenting. If not, the so-called "power over the Budget" of the proposed local legislature is meaningless. Then, as to having "transferred departments" in charge of a Minister, responsible to the local legislature, how can this idea be reconciled, first, with the "direct control" of the Government of India over the whole of the Province, secondly, with the necessity, upon which the majority insist, of keeping the power and prestige of the Chief Commissioner unimpaired; and thirdly, with the impossibility of making him "serve two masters" in the administration of the Province? Under the majority's scheme the Chief Commissioner will be, for external purposes, under the Government of India but in regard to internal administration, he will be, in so far as the "transferred departments" are concerned, not under the Government of India, in practice, but under another master, namely, the Minister and the Legislative Council; so that, in reality the majority have not only no objection to, but actually provide for, (a) the elimination of the direct control of the Government of India over the internal administration of the Districts in so far at least as the "transferred departments" are concerned, and (b) the subjection of the Chief Commissioner to two different masters. Again, how can you have a province with "all the essentials in the reforms enjoyed by a major Province" without imposing on it all the limitations and obligations to which the major Provinces are subjected under the Devolution Rules, namely, (a) being financially self-supporting; (b) having divided heads of revenue with only a certain share of the Income-tax; (c) liability for Provincial contributions to the Central Exchequer; (d) making provision every year for expenditure upon relief of or insurance against famine, etc., etc.? I doubt whether the majority have realized all the implications and practical difficulties involved in their proposals. They are conscious, no doubt, of one difficulty, and that is that their proposals are so radical as to necessitate an amendment of the Government of India Act. I might add that the "Instrument of Instructions" issued to the Governor-General of India under Royal Sign Manual on the 15th March 1921 will also have to be amended, as paragraph (3) thereof contemplates an Executive Council only in the case of the Governor-General, a Governor, or a Lieutenant-Governor and Ministers in the case of Governor's Provinces only. Our colleagues of the majority, besides asking for an Executive Council, want a Minister in the case of a Chief Commissioner's Province, although even a Lieutenant-Governor's Province was not deemed worthy of that privilege by the authors of the Reforms Scheme and by Parliament.

16. This distinction between a major Province, that is to say, a Governor's Province or a Lieutenant-Governor's Province and the small areas under the administration of Chief Commissioners is based on political, administrative and financial reasons which are not difficult to understand. Having regard to those reasons, it follows that if the North-West Frontier Province as a whole, with its five administered districts and its unadministered trans-border tracts, is to be kept intact and undivided as at present under the "personal administration" of the Chief Commissioner and the "direct control" of the Government of India, both of which the majority postulate as "axioms" or "fundamental canons" of frontier management and frontier administration—there is no scope or justification whatever for the majority's proposals to inaugurate in the Province a "full-fledged",—"a live and vigorous"—constitution, "with all the essentials in the reforms enjoyed by a major Province". The following extracts from the Montagu-Chelmsford Report will make my position clear:—

"Connected with defence is the diplomatic business of relations with bordering Asiatic powers, and with this again the administration of bastions of territory like the Frontier Province and British Baluchistan". (Paragraph 16.)

"There remain the frontier areas of the North-West Frontier Province and Baluchistan, and the smaller tracts of British India, like Delhi, Coorg and Ajmer-Merwara. For reasons of strategy the two Frontier provinces must remain entirely in the hands of the Government of India. But, inasmuch as our guiding principle, where the principle of responsibility cannot yet be applied, is that of government by consultation with the representatives of the people, we think that in some, if not all, of these areas it would be well to associate with the personal administration of the Chief Commissioner some form of advisory council, adjusted in composition and function to local conditions in each case. This question we would leave to the further consideration of the Government of India." (Paragraph 19S.)

"The two frontier provinces of British Baluchistan and the North-West Frontier Province form a small class by themselves. They are administered by Chief Commissioners who are also agents to the Governor-General in respect of political relations with adjoining tribal territories; they are in fact more directly than any of the foregoing provinces under the control of the Government of India, acting through its Foreign and Political Department, both because political questions are of preponderant importance and also because they lack the financial resources and powers which more settled provinces enjoy." (Paragraph 43.)

My colleagues of the majority cannot have it both ways. If their "axioms" or "fundamental canons" of frontier management and administration are to be adhered to, the Frontier Province cannot have anything better than at the most a mere "advisory council" which the Chief Commissioner, in his "personal administration" of the Province, may avail himself of for "consultation" only. But if their so-called "axioms" or "canons" are no longer to be treated as sacro-sanct but to be so materially deviated from in practice as to allow the "personal administration" of the Chief Commissioner and "the direct control" of the Government of India to be eliminated to the extent that they propose from the civil administration of the five settled districts, there is hardly any justification for withholding from those districts the advantages of a Provincial Government which has an administrative machinery which is better equipped and better organised and has greater financial resources and powers than this miniature province can ever hope to have.

17. I will now proceed, after a preliminary survey of the finances of the province, to deal with the increasing financial burden which would be imposed on the central revenues if the majority's proposals are given effect to. As things

Financial objections.

stand, that burden is heavy enough in all conscience. It has gone on increasing by leaps and bounds since the formation of the Province in 1901. The majority, in paragraphs 32 and 33 of their Report, have made, as will be presently shown, a futile attempt to put a gloss upon it and to make light of it. Lord Curzon, in persuading the Secretary of State for India to accept his scheme, apart from other more weighty considerations, urged also the financial ground of "reduced outlay" and represented that the additional annual cost to the Government of India by his proposals would be only 3 lakhs of rupees or so. The Secretary of State, in his Despatch of the 20th September 1901, in which he accorded his "general approval" to the scheme, observed :—

"7. The extra annual cost of the new Province is estimated by Your Excellency's Government at Rs. 3,55,507. I do not consider that it will be prudent to calculate upon this estimate being reduced materially."

Apart from the possibility of "this estimate being reduced materially," its being a gross under-estimate was pointed out in unmistakable terms by that capable administrator and far-sighted statesman, Sir Mackworth Young, the then Lieutenant-Governor of the Punjab, who predicted that the annual cost of this new province would be much heavier than was assumed by Lord Curzon, whose forecast was bound to be falsified. And it *was* falsified in the very first year. In 1902-03, the first complete year of the new province, the revenue realised was 36 lakhs and the expenditure incurred was 74 lakhs, so that the province started with a burden of 38 lakhs on the Government of India. This burden went on increasing from year to year. In 1918-19, it was 81 lakhs and odd. In 1919-20, it increased to 107 lakhs and odd. In 1920-21, it amounted to nearly 126 lakhs. Actuals of 1921-22 show the deficit for the year to be 140 lakhs. According to the Budget figures for 1922-23 of Receipts and Expenditure (reducing the Expenditure by Rs. 12,91,000, which was the lump reduction made by the Legislative Assembly in the "Demand for Grant" in March 1922), the deficit for the current year is not likely to be less than 160 lakhs. As to the enormous growth of expenditure from the first complete year of the Province, in which, as noted above, it amounted to 74 lakhs, the following figures will speak for themselves :— In 1918-19, the expenditure amounted to 138 lakhs and odd. In 1919-20, it rose to 168 lakhs and odd. In 1920-21, it went up to 182 lakhs. According to the Actuals of 1921-22, it took a further leap and amounted approximately to 2 crores. According to the Budget for 1922-23 (deducting the reduction made by the Assembly) it goes up to 2 crores 69 lakhs and odd. If the percentage of increases of expenditure is calculated only upto the end of 1921-22, on the basis of 74 lakhs for the first complete year (1902-03), the increase amounts 170 per cent. in 20 years. But if it is calculated on the Budget figures for the current year, it would be 263 per cent. in 21 years. The majority attempt to prove to their own satisfaction that this increase of expenditure of 170 per cent. in 20 years (they omit the current year from their calculations) "compares very favourably with the increase of 21 per cent shown in the budget estimates of the Punjab for the same period", ignoring the fact that the Punjab had, after providing for its increased expenditure from its increased revenue, accumulated a reserve balance amounting to 2 crores 59 lakhs and 93 thousand rupees at the beginning of 1920-21, that is to say, immediately before the political reforms under the Government of India Act of 1919, with their attendant increase of expenditure, came into operation. "But", say the majority, "more than half the expenditure is incurred not on civil administration proper but in connection with the tribal tracts and border defence". And they go on to say: "Thus the principal rise in expenditure has been incurred for the protection of India's land frontier, and for this it is clear that India as a whole must pay. It is out of the question for the frontier districts to bear the charge". Nobody says—the minority never urged—that the legitimate expense for the defence of India should not be treated as an Imperial charge. Whether it should be borne by India alone or by England and India jointly is a point upon which opinion may be divided. But is it correct to say, as the majority assert, that "*more than half*" the expenditure is incurred not on civil

administration proper but in connection with the tribal tracts and border defence" ? Mr D. N. Dutt of the Audit Department, who was specially deputed to Peshawar to prepare "Statements showing the distribution of the revenue and expenditure of the North-West Frontier Province from 1918-19 to 1922-23 between the settled districts and the tribal area", has prepared those statements and tabulated the results. In doing so, he has, with the concurrence of the Chief Commissioner of the Province, thrown on the tribal area every item of expenditure which could be assigned to it, including the whole of the expenditure incurred for the Frontier Constabulary, Militia Corps, Tribal Levies, Khassadars, the Khyber Rifles, the Military Secretary and even the cost of seven appointments of Extra Assistant Commissioners. Here are his figures :—

(In thousands of rupees.)				
	1918-19.	1919-20.	1920-21.	Revised, 1921-22.
<i>Settled Districts.</i>				
Total Expenditure. (Imperial and Special)	73,36	98,35	1,09,65	1,17,45
<i>Tribal area.</i>				
Total Expenditure. (Imperial and Special)	65,23	69,97	72,36	78,26
Total Expenditure for both	1,38,59	1,68,32	1,82,01	1,95,71

Mr. Dutt's Budget figures for 1922-23, after deducting Rs. 12,91,000 (the reduction made by the Legislative Assembly) from the Total Expenditure for the "Settled Districts" and deducting Rs. 60,45,000, which is the amount of "Special Expenditure in Waziristan", from the Total Expenditure in "Tribal Area" give the following result :—

(In thousands of rupees.)				
				Budget, 1922-23.
<i>Settled Districts.</i>				
Total Expenditure. (Imperial and Special)	.	.	.	1,17,64
<i>Tribal area.</i>				
Total Expenditure. (Imperial and Special)	.	.	.	91,00
Total Expenditure for both	.	.	.	2,08,64

Thus it will be seen that the majority's assertion that "*more than half* the expenditure is incurred *not* on civil administration proper but in connection with tribal tracts and border defence" is not supported by these figures and turns out to be an erroneous assumption on their part. The whole of their argument, therefore, based on that assertion, in justification or extenuation of the inordinate and rapid growth of expenditure not only in "Tribal Area" but also in the "Settled Districts" and the consequent yearly increasing heavy deficits, falls to the ground. Conscious, however, of the soundness of the financial objections to their proposals, they proceed, after this fruitless attempt to shew that the growing burden on the central revenues, on account of the Province, was not in reality heavy or unjustified, to prepare the ground for their favourable reception by representing to Government that measures are "being taken to reduce the deficit and to make the internal administration of the districts as far as possible self-supporting". How this is being done is explained in paragraph 40 of their Report, in which, after speaking of distribution of expenditure and retrenchments in contemplation, they say: "According to rough calculations we have made, the present deficit on the internal administration would drop from about 56 lakhs to about 20 lakhs a year, with some prospect of ultimate extinction".

If these "rough calculations" are subjected to careful scrutiny, the Government of India would find that they are open to the following objections:— (1) over-estimating average annual revenue from the "settled districts"; (2) under-estimating the expenditure incurred for the internal civil administration of those districts; (3) throwing on the "Tribal Area" portions of expenditure incurred really and substantially for and on account of the five "settled districts"; (4) relying on possible increases of revenue from sources of a problematical character; (5) appropriating certain heads of revenue or portions of revenue which in a major Province would go wholly to the central revenues; (6) making the Central Government shoulder the whole or portion of the cost of a Department which in a major Province would be a provincial subject. The soundness of the last two objections, at any rate, would be apparent from the fact that if the revenue and expenditure for the settled districts were distributed between "central" and "provincial" in accordance with the present classification of "central" and "provincial" subjects for the major provinces, that is to say, Governors' Provinces, the result, according to Mr. Dutt's figures, would be as follows on the current year's Budget Estimates:—

	(In thousands of rupees)
Total "Provincial" expenditure for the Settled Districts .	1,35,76
Total "Provincial" revenue for the Settled Districts .	64,10
Deficit	71,66

Thus, instead of 56 lakhs, which the majority have taken as the current year's deficit on the internal administration of the settled districts, the real deficit, if the Province is to be started "with *all* the essentials of reforms enjoyed by a major Province," would be 71 lakhs and 66 thousand. Even apart from this consideration, the majority's confident anticipations, based on their "rough calculations," as to the deficit on the settled districts being capable of reduction to 20 lakhs a year "with *some* prospect of ultimate extinction," would be found to be illusory. The fact is that the cost of the civil administration of this miniature province, with its duplicated and top-heavy administrative arrangements, is bound always to be an increasingly heavy financial burden on the central revenues. It is no use blinking, ignoring or minimising this fact. Bearing it in mind, let the Government of India visualize the increasing financial strain to which the central revenues would be subjected in the immediate and not distant future, if the majority's proposals are accepted and put into operation.

18. The majority's immediate demands are:—(a) a Member of the Executive Council; (b) a Minister, who is to be in charge of all such departments as are transferred departments in the Punjab (the principal of which are:—(1) Local self-government; (2) Medical administration, including hospitals, dispensaries and asylums, and provision for medical education; (3) Public health and sanitation; (4) Education; (5) Public Works; (6) Agriculture; (7) Civil Veterinary Department, including provision for veterinary training, improvement of stock and prevention of animal diseases; (8) Co-operative Societies; (9) Excise; (10) Development of industries, including industrial research and technical education); (c) a Legislative Council, with an elected majority of at least 60 per cent. which is to meet for only 30 days in the course of a year (*vide* majority's Report, paragraph 50, page 29, footnote); and (d) an Indian member of the Bar, as an Additional Judicial Commissioner. According to their present calculations, this would cost the central revenues annual recurring expenditure of only Rs. 86,282* and initial cost of books and furniture amounting to Rs. 6,000. The future cost of addition to the books, repairs and additions to furniture, salaries of stenographers, cost of more clerical establishment, expenses in connection with arrangements for election, and such other consequential and incidental expenses as are bound to be incurred are not included in this estimate. But leaving these details aside for the present the question is, if this is all the recurring expenditure that their proposed new dispensation would

inflict on the central revenues. Within a year or two of its coming into existence, the Legislative Council, with its not less than 60 per cent. elected members, will make the following insistent demands and the public will support them in those demands:—

- (1) That there must be another Member of the Executive Council—a non-official Indian, so that there may be, in regard to the “reserved” departments, inside the Executive Government, an equality of European and Indian members, which is one of the “essentials” of reforms enjoyed by a major Province as a necessary corrective to and a complement of a dyarchical form of Government.
- (2) That it is impossible for *one* Minister to manage efficiently so many “transferred” departments of vital importance to the people and that, therefore, there must be at least two, if not three, Ministers in all.
- (3) That it is a mockery to summon the Legislative Council to sit for only 30 days in the course of a whole year and that, therefore, there must be more and longer sessions every year.
- (4) That the “transferred” departments of Education, Sanitation, Medical administration, Agriculture, Industries, etc., etc., are being starved and need more expenditure, especially for starting more schools and colleges, for imparting literary, agricultural or technical education, and also for establishing a University for the Province, etc., etc.
- (5) That a Bench of two Judicial Commissioners only is not enough, because when they differ, there is no third Judge to whom the case may be referred for final decision, and that therefore there must be a Chief Court, consisting of three Judicial Commissioners, as in Sind.

These demands and others of a like nature will be the inevitable consequences of giving effect to the majority's proposals. It is obvious that they will cause not only a ceaseless but a rapidly increasing drain on the financial resources of the Government of India, for there was not a single witness of administrative experience who did not tell the Committee that raising more revenue in the Province to any appreciable extent was out of the question. The financial considerations alone which are involved in the majority's proposals should, therefore, make the Government of India desist from accepting them.

19. My fourth objection to the majority's proposals is that they are unsuited and insufficient to meet the imperative necessities of the case, in regard to both the civil administration of the settled districts and effective political control of the trans-border tribes. To make my position clear, it is necessary to ascertain the results of the policy on which Lord Curzon's scheme of 1901 was based and of the system of administration which it brought into operation. If that policy has proved disastrous, it would be a blunder to persist in it. If that system has proved a failure, it would be wrong to perpetuate it. I maintain that Lord Curzon's policy as to defence of the country by means of tribal militias and political control of the trans-border tribes by depending upon their harmonious co-operation by payment of subsidies has completely failed. I maintain that the system of civil administration of this small miniature Province directly under the Government of India through their Foreign and Political Department with the Chief Commissioner responsible for *two* different sets of duties has proved, as it was bound to prove, inefficient, too burdensome to the general taxpayer, and ill-calculated to secure the progress, contentment and happiness of the British subjects in the settled districts. If these contentions are established, my position is that no make-shifts or tinkering measures would solve the real problem but that a different policy with a special agency

to carry it out with undivided attention and a wider, broader, less costly to the central revenues, more progressive and more efficient system of civil administration for the settled districts are the imperative needs of the situation.

20. Lord Curzon's scheme for the formation of a Frontier Province by detaching some of the frontier districts from the Punjab and placing them under a separate administration directly under the Government of India was the "natural complement and climax", as he called it, of his trans-border plans which he described in these terms: "To extricate from advanced positions the large numbers of regular troops who have for some years been stationed there; to consolidate instead of diffusing our military strength upon the border; and to promote a spirit of local harmony and co-operation by enlistment, in the service of the British Government, but in the defence of their own country, of the wild but not intractable inhabitants of these regions." He claimed for this scheme of his the "unquestioned advantages of reduced outlay, of increased tactical mobility, and of tribal contentment" (*vide* paragraphs 7 and 8 of his minute, dated the 27th August 1900) Sir Dennis Fitzpatric, in the "opinion" recorded by him as Member of the Council of India, dated the 17th January 1901, commenting on Lord Curzon's proposals, observed:—

Failure of Lord Curzon's transborder policy.

the Government of India was the "natural complement and climax", as he called it, of his trans-border plans which he described in these terms: "To extricate from advanced positions the large numbers of regular troops who have for some years been stationed there; to consolidate instead of diffusing our military strength upon the border; and to promote a spirit of local harmony and co-operation by enlistment, in the service of the British Government, but in the defence of their own country, of the wild but not intractable inhabitants of these regions." He claimed for this scheme of his the "unquestioned advantages of reduced outlay, of increased tactical mobility, and of tribal contentment" (*vide* paragraphs 7 and 8 of his minute, dated the 27th August 1900) Sir Dennis Fitzpatric, in the "opinion" recorded by him as Member of the Council of India, dated the 17th January 1901, commenting on Lord Curzon's proposals, observed:—

"16. Possibly what Lord Curzon means to suggest is that the conflagration of 1897 was the result of our taking regular troops with us to hold the positions into which we advanced, and that if, instead of doing that, we had organised militia corps recruited to a large extent from the people of the country, as he is now doing for North and South Waziristan, all would have gone smoothly. If this is his idea, I must say it is a very questionable one. I do not desire to express any opinion on the great experiment he is now about to try, and which, if it stands the test of times of trouble in a country like Waziristan, will do him infinite credit."

Has it stood the times of trouble? Those who are in a position to speak with authority on this matter have already answered the question in no ambiguous terms. In the Secret military compilation to which I have already referred, it is argued that Lord Curzon's policy of withdrawing the regular troops so far as possible to cantonments in the rear while the frontier posts such as those in the Khyber and Kurram, at Wana and in the Tochi, were held by militia, had after 20 years' trial failed completely at the first real test of religious fanaticism that flooded the border in 1919. And the military writer contrasted that policy with the policy of Sir Robert Sandeman, who looked upon the system of keeping the tribesmen quiet by bribery, unless in return for some definite service rendered as the one sure means of building up trouble in the future and of leaving a legacy of punitive expeditions of the 'burn and scuttle' type to future generations.

In a previous paragraph (paragraph 9 *supra*) while dealing with the political unwisdom of the majority's proposals, I have already extracted passages showing how, far from "tactical mobility" materialising, posts had to be evacuated and abandoned and troops withdrawn, and how, instead of "tribal contentment" being secured by payment of subsidies, "the tribesmen were almost all in open revolt" and the Afridi and Wazir militiamen at Wana mutined and deserted and seized treasure, ammunition and transport and the whole system, on which as its "natural complement and climax" Lord Curzon based his scheme for a separate North-West Frontier Province, came down like a house of cards, or, to make use of Sir John Maffey's graphic phraseology, "the whole fabric came down with a crash and we are still sitting in the midst of the broken pieces." Thus, the trans-border policy of Lord Curzon miserably failed and went to pieces at the first real test to which it was put. But that is not all. It has resulted in subjecting British subjects in several urban and rural areas of the province to intensive and systematic raiding, robbing, kidnapping and other insufferable sufferings at the hands of these offsprings of his creation

The Administration Report of the North-West Frontier Province for the year 1919-20 contains the following passage :—

“As the war went on, however, intensive raiding into British territory began, mostly carried out by deserters from the army during the Great War and by subsequent deserters from the militias. These men had been fully trained by British officers and were well acquainted with localities in which they operated and their raids almost always by night were carried out with military precision and were exceedingly difficult to deal with.”

Thus at the expense of the general tax-payers of British India an army of dacoits, marauders, robbers, free-booters has been brought into existence. Vast sums of money spent in allowances and subsidies to trans-border tribesmen to bring about “tribal contentment” have made them rich enough to purchase and manufacture an enormous quantity of arms and ammunition and become a terror and a scourge to the British subjects in the settled districts.

21. Harrowing tales of misery inflicted upon British subjects by the tribesmen were told by many witnesses from towns and rural parts. The tragic tale of woe of the Hindu villagers of

Pitiable insecurity of life, person, property and honour under the new régime.

Gomal, a border village, will be found at pages 871-873 of Volume I. Apart from loss of many lives, they suffered, according to them, loss of property to the extent of seven lakhs of rupees when their village was attacked in 1919 by an armed gang of 400 or 500 Wazirs. “Having suffered like this,” asked the President of the Committee, “they all want to go back to the Punjab?” and the spokesman of those villagers gave this significant answer:—“Forty-four years ago, i.e., on or about 1st January 1879, this same Gomal village was looted and in a short time we got compensation and the persons who had connived at the dacoity were punished. Files may be consulted”. The minority of the Committee do not contend that a reversion of the settled districts to the Punjab administration would *ipso facto* put a stop to raids committed by trans-border tribes on British subjects in the settled districts. But it was clear to them, though not perhaps to the majority, that the poor villagers who pleaded, some of them with tears in their eyes, for reamalgamation with the Punjab, did so because they felt that *any* change of administration would not in any case make their lot worse than it was under the present arrangements. It is not only in villages but also in towns that the people have been suffering from insecurity of life and property and honour. They all contrast the state of things which prevailed when they were under the Punjab Government with what has come into existence since. There are numerous passages scattered throughout the evidence of the witnesses before the Committee giving a correct picture of “then” and “now” and particularly an accurate delineation of the present miserable state of things. In order that the Government of India may have an idea of it, I extract here a passage which, though long, will repay perusal :—

“It is not only in the villages that the honour, person and property of the people are exposed to danger, but in the towns too, the people feel themselves unsafe. A large number of villagers feeling insecurity in their villages have forsaken their sweet homes and hearths, relations, lands, unrealized debts, etc., and have come down to towns to settle. It is not an easy task even to roughly estimate the difficulties and disappointments which these people driven by the blows and buffets of ill-luck have to face. In days before the formation of the North-West Frontier Province travelling was an easy and delightful task. Any single person could travel alone, say, from Bannu or Fort Sandeman to Dera Ismail Khan, even at night time. But now safe travelling has become a thing of the past; what to speak of private persons, even the convoys and tongas have been looted in broad day-light.

“There are instances of raiders and dacoits coming into the centres of big cities during day time and looting and burning the property of defenceless people being defended neither by the Government,

nor by their own arms because they are allowed no arms for self-defence. What misery could be greater? The efforts to trace the dacoits are usually attended with little success, with the result that they go unpunished and unnoticed and become more daring in their depredations. We have heard nowhere the gates of the cities being closed at about six in the evening for fear of the marauders, but one surely hears in the Frontier (the gates of Kohat and Bannu being closed at about six in the evening). Could insecurity and danger anywhere else be greater? In case of kidnapped persons the marauders demand heavy ransoms from the relatives of the kidnapped which practically reduces them to poverty and when these exorbitant demands are not met, the kidnapped ones are subjected to torments and tortures. In case of kidnapped girls and women, the examples of which are not few, we can guess the treatment that these wild persons will be meting out to them and their behaviour towards them. The state of agony in which the kidnapped girl, and her parents behind, must be is simply unimaginable. God knows how many persons have been made homeless, how many women have been widowed, how many children have been made parentless and how many parents have been made childless at the hands of these wild and merciless marauding tribes." (Volume I, page 850.)

Such are "these wild and merciless marauding tribes" upon whom, by the trans-frontier policy of pampering them and placating them, we are asked by our colleagues of the majority to rely as "a barrier against all possible enemies from the West"!!

22. In spite of the fact that when the real test came, "the whole fabric came down with a crash", in spite also of the fact that in pursuance of the policy of securing "tribal contentment" by payment of allowances and subsidies, money has been lavishly thrown into the pockets of the tribesmen enabling them thereby to arm themselves with 140,000 breech loading rifles in 1920 as against some 29,000 only in 1905, in spite again of the misery inflicted on British subjects in the settled districts by the pestilential activity of "these wild and merciless marauding tribes", my colleagues of the majority have attempted, in paragraph 24 of their Report, to hold up to our admiration "the record of the Frontier Province in its external relations". And in doing so, they point out that, since the formation of this Province, "there were three expeditions only," two of which were of brief duration, and proceed to say exultingly: "This is a contrast indeed to the record of 55 expeditions during the 52 years of the frontier stewardship of the Punjab Government or one every twelve months culminating in the general conflagration of 1897". Those who have not studied the literature on the subject are apt to be misled by this observation of the majority. They are not likely to know that the majority have here resuscitated an accusation against the Punjab Government which has been repeatedly answered and exploded by those who could speak with authority on the matter. Sir Dennis Fitzpatrick, who, before going into the Secretary of State's Council, was Lieutenant Governor of the Punjab, wrote in his "Opinion" dated the 17th January 1901, recorded by him as Member of the Council of India, that this "has been repeatedly answered before." "The explanation of the Punjab Government," he observed, "which, as I have said, is not now given for the first time, is this, that when we first took over the Punjab the frontier tribes had been in the habit of raiding pretty much at their good will and pleasure. They had to be taught what our strength was, and one of the most effectual ways of teaching them was by punitive expeditions. They took a long period to learn their lesson, and during that period punitive expeditions were numerous, but, as time went on, the necessity for them diminished; and, to refer to the condition of things ultimately arrived at, I find that speaking of raids and punitive expeditions, in a note which I wrote in 1896, I said "raids in any force to speak of across the frontier of British India which were formerly so

common, are now practically unknown, and we have to deal only with crime of the type which always does and must prevail even in British India, where we have to do with turbulent people. Punitive expeditions properly so-called have * * * practically done their work and have almost ceased to be necessary" (paragraph 17). As to the accusation against the Punjab Government for "the general conflagration of 1897", Sir Dennis gave the effective answer "that one of the earliest and most serious of the outbreaks that occurred in 1897, occurred not in a tract under the control of the Government of the Punjab, but in the country around and beyond the Malakand, a tract which had been from the start under the control of the Government of India itself". Witnesses before the Committee, who could speak with knowledge and personal information on the subject, have also given an effective reply to the majority's attempted justification of the trans-frontier policy pursued since the formation of this Province. Nawab Habibullah Khan was asked certain questions on this very point by my colleague Khan Bahadur Abdur Rahim Khan. Here are his questions and the answers given by the Nawab:—

Q.—When these agencies were under the Punjab Government for 50 years we had no less than 40 expeditions; that means after every 15 months we had one expedition. Is that true or not?

A.—Yes, I know that there was a special frontier force stationed in the frontier province, and whenever any trouble arose, that frontier force quelled the disturbance in the trans-border agencies, and *those so-called expeditions did not cost more than the actual cost now being incurred by the constabulary and militia. They were only temporary and did not last for long.*

Q.—Do you remember the rising of 1897?

A.—Yes, I remember my father was an A.-D.-C. to General Sir William Lockhart and was with him throughout the Tirah Expedition.

Q.—Since these agencies were separated from the Punjab, can you quote a single instance of 1897?

A.—The recent Mahsud Expedition under Generals Climo and Matheson was on quite *a far more expensive scale than the Tirah Expedition*". (Vol. I, pages 715—716.) (Italics are mine.)

Rai Bahadur Lala Thakur Datta, an old official of great experience and having a vast store of official information, who retired on pension in 1919, after having creditably served Government "for 36 years without a single day of absence on sick leave" both in the Punjab and in the Frontier Province, has submitted to the Committee a valuable memorandum advocating restoration of the settled districts to the Punjab, to which I invite the close attention of Government. (Vol. II, pages 222—270.) In paragraph 16 of that memorandum he disposes of the majority's attempted justification in these words:—

"The defenders of the present policy * * * put forward * * * the plea that during the Punjab régime too large a number of punitive expeditions was sent out against the various tribes, but they forget it was, for a number of years after annexation, a transition period during which British rule was being introduced and consolidated, and that the tribes had not yet learnt the lesson that a strong power with immense resources in men, money and munitions had come to stay; *the boundary line had not, moreover, been demarcated* and there were disputes on that account which led to Military operations. *It is perhaps not so well known that most of these expeditions were very insignificant affairs and the number of troops employed was as a rule very small.* Between 1849 and 1902, viz., 53 years, 55 expeditions * * * were undertaken against the Frontier tribes; *in six of these there were no casualties on our side.* The total number of British casualties *in all these 55 expeditions was 4,297 or 75 per expedition*, but if we exclude from the number the casualties in the two expeditions against the Hindustani fanatics (908) in 1863, and the Afridis and Orakzais (1,019) in 1897-98, we find that the remaining

53 expeditions cost us 2,352 casualties, or 44 each. During the Pathan Revolt the border was ablaze (1) owing to the success of the Turks against Greece, (2) the preaching of Mullahs, (3) the belief that aid would be forthcoming from Kabul; hence excepting in the year 1897-98, when 10,000 troops were employed, in no expedition did we send out as many as 15,000 troops and in eighteen of the expeditions the number employed did not exceed 2,000 troops. *Now compare these figures with our casualties in the expeditions since the Frontier Province was formed.* The recent expedition, 1919-1921, against the Mahsuds is reported to have cost us a large number in killed and in wounded, and in it the number of troops employed was nearly 60,000. The Mahsud's country, it may be noted, was over-run in 1860 with 6,796 troops including levies, in 1881 with 8,531 and in 1894-95 with 10,631 troops. I have not the figures of expenditure on these expeditions from 1849-1902, but if the Committee will obtain these, it will be found that the total expense did not perhaps equal our outlay on the recent Mahsud expedition alone". (Vol. II, pages 233-234.) (*Italics are mine.*)

But apart from the expense of these three expeditions, what a large and yearly increasing amount has been, and is being taken from the central revenues for "Watch and Ward Trans-Frontier (North-West Frontier)" expenses from year to year? Here are the figures for the past four years:—

	Rs.
Actuals, 1919-20	30,69,315
Actuals, 1920-21	32,32,244
Budget, 1921-22	42,70,000
Budget, 1922-23	43,09,000

A leap of 13 lakhs in 3 years! And how many lakhs of rupees have British subjects in the Frontier Province lost in property looted by these tribal raiding gangs and in payment of ransoms to them for restoration of kidnapped relations? These are heavy debit items which the majority have failed to take into account. Besides they fail to see that what they claim to the credit of the policy they uphold is in reality to the discredit of those who are responsible for it. The Government of India acting through their Foreign and Political Department have laid themselves open to the charge that in the pursuit of their trans-frontier policy they have neglected the interests of the British subjects in the settled districts. In the Secret military compilation to which I have already referred, Sir George Roos-Keppe, the then Chief Commissioner of the North-West Frontier Province, is quoted as advocating a Forward Policy with some forcible observations, the significance and bearing of which on the majority's attempted justification are obvious. According to him the fact that Government instead of embarking on a thorough-going Forward Policy up to the Durand Line, as soon as the Durand Agreement was signed, contented themselves with trusting to the personal influence of local Political Officers and tribal allowances and to the local employment of young tribesmen in the militia to have as few expeditions as possible, argued an apparent indifference to the chronic state of raiding and outrage, to which the people of the districts were subject without hope of compensation for their losses.

23 These observations of Sir George Roos-Keppe have also another significance. They lay bare the inherent defects of a system of administration in which the Chief Commissioner has *two* different sets of duties to perform, one in regard to the political control of the trans-border tribes and another in regard to the civil administration of the Districts, both under the Government of India, acting through their Foreign and Political Department. In carrying out the trans-frontier policy of that Department, he has to submit to the interests of the settled Districts being sacrificed, however much he may protest against such a course. The Foreign and Political Department, to my mind, is utterly unsuited and ill-qualified to have control of or to exercise supervision over the civil administration of *any*

Province, much more so, of a Province formed of Districts the people of which had enjoyed the benefit of a highly organised administration. Such an arrangement is ill-calculated to promote the well-being and progress of the people concerned. The Secret military compilation cites an opinion expressed in 1919 by Mr. Barton, who was then Resident in Waziristan, to the effect that any sort of moral or material progress was next to impossible without a Forward Policy, in proof of which he instanced the heavy bill of something like three lakhs against the Mahsuds at the time of the 1917 operations, which, he said, must have meant ruin for many British subjects. The system of administration which leads to such a deplorable state of things is wrong in principle. Apart from this disability to which the Chief Commissioner is subjected under such a system, there is another factor to be reckoned with. Most of the time of the Chief Commissioner is taken up by his political duties. He has hardly any time to devote close attention to the civil administration of the Province, assuming he has the necessary qualifications for efficient performance of his duties in that behalf. That being so, the task falls on the shoulders of his subordinate, the Revenue Commissioner, who is expected to be a superman in charge of numerous departments of a diverse nature, which, in a major Province, have the benefit of expert control by appropriate agency, due provision for which would mean setting up the complex administrative machinery of a major Province in a small Province involving a tremendous burden on the central revenues. The result is not only lack of efficient and economic working of several Departments, some of which are overmanned, but utter lack of some other Departments necessary for the development of the Province and the progress of its people on modern lines. This result is inseparable from the scheme which brought this Frontier Province into being. It cannot be got over by mere makeshifts such as "periodical interchange of officers between the Punjab and the North-West Frontier Province" as proposed by the majority. The root of the evil lies deeper. The drawbacks are inherent in the system itself. They were pointed out at the time as the great disadvantages of Lord Curzon's scheme by Sir Mackworth Young and by the Secretary of State for India. The grounds urged by the former, in his remarkable Memorandum, dated the 15th July 1901, against that scheme are as sound and valid to-day as on the day they were written. The "difficulties" of the latter, as embodied in the 5th, 6th and 7th paragraphs of his Despatch of the 20th December 1900 and pointedly referred to by him in his final Despatch of the 20th September 1901 in reluctantly giving his "general approval" to that "experimental" measure, have gained in force by experience of its actual working.

24. Sir Mackworth Young, in his memorandum of the 15th July 1901 to the whole of which I invite the careful attention of the Government of India, wrote that "*the miniature administration which it is proposed to constitute will be much less efficient than that which now exists as part of a large provincial organisation*" and said that "*there will be a marked downgrading in every branch of the internal administration in the next half century.*" Further on he observed: "I need not enter at length into the causes of this. They occur under the heads of supervision and recruitment. The deterioration will not be apparent for some time as the posts of the new Administration will be filled at starting with the best material available and the administrative machine will run on the old grooves without the full supervision hitherto exercised. *But as time goes on, the defects in the system will make themselves felt.* Efficiency in a department will be in direct relation to the energy and the quality of the supervision; but *in the new Province expert supervision will not be available in each department; the supervision of the several departments will rest with a single officer, and that of others with officers of a status less than that of the Head of a Provincial Department. The sphere of the new Province will not afford a training ground for the acquisition of a large and varied experience* and men capable of supervising several departments will not ordinarily be forthcoming in the new cadre." He added: "The method of settling this long debated frontier question * * * has been arrived at without any opinion from the Punjab Government having been asked. I have given my reasons for objecting to this procedure and the

Government of India have dealt with my objection. I have not thought it proper or necessary to make any rejoinder. But I wish not to be misunderstood. *The method of solving the question, which has been adopted, is not mine.* The scheme, to which I have devoted much attention and pains, is *not framed upon lines which I can approve*, and I put it forward with anything but a light heart. *It is open to all the objections which have been pointed out by the Secretary of State and some others.*" (Italics are mine.)

25. The Secretary of State for India who dealt with this question from 1898 onwards until the decision to form this new Frontier Province was arrived at in 1901 was the Right Honourable Lord George Hamilton. He was from the commencement till the end fully alive to the "unavoidable drawbacks" of the scheme and its attendant "difficulties" and "disadvantages". In his despatch of the 5th August 1898 he observed: "It is open to question whether it is altogether advisable to place *in the hands of a single Commissioner* the whole executive power *on both sides* of this most important section of the Empire's external frontier, *without the restraint which trained experience of a financial and administrative responsibilities on a large scale imposes upon an authority charged with the government of a first-class province.*" Lord Curzon in his famous Minute on his scheme for the formation of a Frontier Province, urged in reply to this: "I may say that exactly the same objection was raised when Baluchistan was converted into a separate administration, and that it proved to be entirely groundless; and that I would not myself propose for one moment to appoint as head of the new province any officer who was destitute of financial and administrative experience". The Secretary of State, in his Despatch of the 20th December 1900, put forward his objection afresh in more explicit terms disposing of Lord Curzon's reply to him. It is contained in the 5th paragraph of his Despatch, which is so important that I think it necessary to quote it bodily:—

"5. The staff of the new Frontier Province will *not be large*, and the Governor-General's Agent at its head will have *two very different sets of duties* to perform and supervise. In respect of the Frontier tribes his duties will be political, and his policy will be under the direct control of your Government. But in the case of the settled districts, which you propose to detach from the Punjab, *it is clearly undesirable that the people having already enjoyed the benefit of a highly organised administration with its careful land settlements, its laws and regulations, and the various institutions of a progressive Civil Government, should be thrown back from the stage which they have already reached.* The Governor of a large province not only possesses a special and large experience of British administration, but can summon to his aid and counsels Heads of Departments and Commissioners of Divisions whose advice may be of the utmost value. The Governor-General's Agent will not, without special arrangements, be able to count upon such assistance. I have not overlooked the fact that Your Excellency intends to draw upon the Punjab for skilled officers in the subordinate branches or in the technical departments, but *I am not satisfied that this will meet the whole case*; for the important question of superior direction remains to be dealt with. Nor does recent experience in Baluchistan appear to me to be altogether relevant, since no part of that agency can claim to have a district, or part of a district, in any respect so advanced and settled as the Trans-Indus British districts which you propose to detach from the Punjab". (Italics are mine.)

26. In the 6th paragraph of his Despatch, the Secretary of State laid stress upon the necessity of attaining and preserving a *very high standard of individual efficiency* in administrative as well as political duties, and added:—"It seems to be probable that in so small a province it will not be easy to keep the staff at the requisite level of efficiency, unless *picked officers* are *largely imported from other provinces*, a measure which can hardly fail to produce discouragement among the regular staff of the province by retarding promotion in the lower grades". How far this "very high standard of

individual efficiency" has been preserved in the new Province will be clear from the fact that when it was started, 7 out of 8 Munsiffs were Graduates, whereas now out of 9 permanent Munsiffs only 1 is a Graduate. Besides, now no minimum educational test is in practice insisted upon for recruitment of the staff. Appointments of candidates have actually been made and confirmed without their even passing the departmental test. The smallness of the cadre and deterioration in the quality of the material recruited have thrown back the Province and the "downgrading" which Sir Mackworth Young predicted would be markedly observable in every branch of the internal administration "in the next half century" has been brought about much earlier by the authorities responsible for the civil administration of the districts having treated with scant courtesy the injunction given by the Secretary of State in the 6th paragraph of his Despatch.

27. In the 7th paragraph of his Despatch the Secretary of State laid emphasis on another point of great importance, "In remarking", he observed, "that the need of a strong administration equipped with all the resources of Government would be felt on the Frontier, I did not refer to the political administration. I referred to the advantages that must accrue to the Frontier districts of British India from *the application to them of the ways and means at the command of a first-class administrative unit*". He proceeded to illustrate these advantages by pointing out that "the construction of roads, bridges, rest-houses and hospitals, and *generally the assignment of provincial resources to a particular district*, may be of the utmost value and *are best secured if the district is an integral part of a large province*." There was another advantage of paramount importance which he expressed in these words :—"In times of disturbance or threatened danger a large province can draft in additional police, procure transport, change local officers, and do much to prepare for troubles before they arise or assume the form of military operations." Finally, in that paragraph, he expressed his hesitation and doubts in according sanction to Lord Curzon's scheme by making the following significant remark :—"If it is necessary to transfer settled districts from the control of the Punjab Government, and to place them under the same administration as the adjoining tribal country, it is important that the possible results of such a policy should be fully considered and provided for".

28. Lord Curzon, in justification of his scheme, made the following claim :—"I have shown good reason for believing that the scheme which I have proposed, so far from increasing, may possibly even diminish our annual outlay". With reference to this, the Secretary of State in the 8th paragraph of his despatch, said that he hardly anticipated, judging from general experience, that Lord Curzon's preliminary estimate will not have to be modified and, while not desiring to lay down any fixed limit in the matter, trusted "that *no pains will be spared to prevent the imposition of any unnecessary burden on the revenues*". How far this expectation has been realised, the Government of India need hardly be told. They are already aware, I take it, that this Province has immersed them more than waist-deep into a financial morass. My colleagues of the majority approach them with proposals which would make them sink neck-deep into it.

29. If Lord Curzon's trans-frontier policy has proved a failure at the first **What then is the solution of the problem?** real test to which it was put, if the system of civil administration of the settled districts, which his scheme brought into operation is also proved by experience of its working for the last 20 years to be still open, if anything with greater force, to all the objections which were then urged against it by Sir Mackworth Young and the Secretary of State for India, and if, further, the proposals of the majority to keep this miniature Province, as at present, a separate entity and to introduce into it a "full-fledged constitution" "with all the essentials of reform enjoyed by a major Province" are out of the question on the various grounds urged in the foregoing paragraphs, what is the solution of the problem? That involves an answer to the following two questions :—

First, what is the trans-frontier policy which is to be pursued and what are the arrangements to be made in order that it may be properly carried out.

Secondly, what is to be done to secure to the people of the settled districts the manifold advantages of a well-organised and progressive administration which, from the points of view of efficiency and economy, would be more satisfactory than the continuance of the present arrangements?

As to the first of these two questions, the answer is *one* of the following two courses :—Either (a) controlling the tribes without annexing them; or (b) occupying and administering the tribal area right up to the Durand line. As to which of these is the right course to pursue is more than I can pronounce an opinion on with any degree of confidence, much less with authority. I confess, however, that I have a predilection in favour of the Sandeman policy which has, as its basic idea, the former of the two courses. But, in any case, I rule out the policy of attempting or making a make-shift peace with the tribesmen, necessitating, on its non-acceptance or breach, a punitive expedition followed by withdrawal, leaving behind it a legacy of tribal hatred and causing tribal emboldenment by the apparent weakness of the withdrawing Government. I mean by the Sandeman policy, a policy which was carried out in Baluchistan to a logical conclusion with a definite purpose by Sir Robert Sandeman. He was a man of great personal character who when he had set his hand to the plough would not look back, who employed the troops always as a support in his enterprises to ensure submission, and by rapidly seizing points of territory behind the tribes at once dominated them; who placed on the leaders and maliks of the tribe the responsibility for maintaining order and strengthened their position by every means in his power; who looked upon the system of keeping the tribesmen quiet by bribery, unless in return for some definite service rendered, as the one sure means of building up trouble in the future and of leaving a legacy of punitive expeditions of the "burn and scuttle" type to future generations. Finally who proved that it is possible to cultivate friendly relations with the tribesmen and to control them without annexing them. Sir Robert Sandeman always realised that to maintain order you must remove the causes of lawlessness and gradually introduce the groundwork of civilisation, and supply the tribesmen with the means of earning an honest livelihood by developing the resources of the country to the utmost.

It is this course in favour of which, as I have said above, I have a predilection. The other course of "occupation and administration up to the Durand line," that is to say, a downright forward move without mincing matters, has also its votaries and expert authoritative exponents. Sir George Roos-Keppel was strongly in favour of it. Mr. Barton, Resident in Waziristan, was equally convinced of its necessity and efficacy. The military authorities see no other way to the solution of the problem. Several witnesses before the Committee, including even some Muslim witnesses, have earnestly advocated it.

But whichever of these two policies is to be pursued, it is necessary, in order that that policy may be successfully carried out, to do away with the present faulty system of the Chief Commissioner having "two different sets of duties to perform and supervise," as the Secretary of State for India put it in the 5th paragraph of his Despatch of the 20th December 1900. He must be placed in a position to give his undivided attention to the steady and strenuous pursuit of that policy. It is essential, therefore, to sever his duties in regard to tribal management from his administrative duties in connection with the settled districts. He must be, pure and simple, Agent to the Governor-General of India, North-West Frontier Tribal Tracts. In carrying out the onerous duties of that high office, with the assistance of his subordinates, the Political Agents or Residents, he will be responsible for the behaviour and well-being of the tribes under his control, so as to take effective measures for preventing their raids into the settled districts,—apparent indifference towards which was argued according to Sir George Roos-Keppel by Government's failure to embark on a Forward Policy. Rai Bahadur Lala Thakur Datta, the oldest and the most experienced Indian official, whose qualifications to speak with

authority on the questions before the Committee I have already mentioned in a previous paragraph, says in his Memorandum :—

“ The sad story of the miseries and woes of our subjects would give a tremendous shock to the British people, and to the civilized world, if the tales of murders, dacoities, robberies, kidnapping and other crimes, from which they have suffered at the hands of the tribesmen, could be laid bare and published. Let the Agent to the Governor-General be relieved of his duties in connection with the internal administration of the five districts and I am confident that a change for the better will come in our dealings with trans-frontier tribes. He will then have to show how far his policy and measures adopted by his Political Agents have been successful in preventing raids and keeping peace ”.

The ideal arrangement, if it were practicable, would no doubt be to separate off from the settled districts every portion of the tribal tract immediately adjoining every district. But administrative convenience in respect of “ not purely external ” relations with the tribes necessitates the Deputy Commissioner of the district retaining the political control, which he has at present, of “ the immediate ‘ hinterland ’ of his district ” so as to have charge of “ clans which march with British territory ” as distinguished from those “ who are far removed from the border line ” and in regard to whom separate political agencies have been formed unconnected with and independent of the civil administration of the settled districts.

That brings me to the second question as to what is to be done to give to the people of the settled districts the advantages of a civil administration which will be more progressive and more efficient and, at the same time, less burdensome to the central revenues. My answer is that there is no other way to do it than by making the five settled districts again “ an integral part ” of the large Province from which they were cut off only 20 years ago, so that these five districts together with the political control of the adjoining tribal area which is at present with the Deputy Commissioners of the districts should be restored to the Punjab Government and made, for all purposes, part and parcel of the Punjab in every branch of its civil administration. In that course alone lies the real well-being of the people. In that course alone lies also the salvation of the central revenues.

30. Several witnesses before the Committee have shown how the interest of the people and of the administration are prejudicially affected, and how the central revenues are subjected to an unnecessary burden, on account of the smallness of the Province. In order that the Government of India may have some idea of this matter, I will draw their attention to a few of the points having a direct bearing on it.

Major C. I. Brierley, I.M.S., who has been for 10 years Civil Surgeon, Peshawar and District, and 6½ years Superintendent, Peshawar District Jail, said in his memorandum :—

“ I know my subordinates to be in favour of the Department, *i.e.*, the Medical Department, being reverted to the Punjab.”

“ I am also myself somewhat in favour of it.”

“ There is no doubt that Assistant Surgeons and Sub-Assistant Surgeons would have more scope for good work and would have the chance of getting better billets.”

“ This Province in my opinion is somewhat small for an efficient Medical Department. There are only two large hospitals, the remaining posts are more in the nature of dispensaries.”

“ Regarding jails, I am in favour of the Jail Department reverting to the Punjab and I know the jail subordinates are in favour of this.”

"The Province is too small for a separate Jail Department. Promotion is slow and there is no chance for jailors to earn the highest pay of their Department."

"There is no central jail and for this reason they do not get the same chances of learning their work. The same applies to warders".
(Volume II, page 60.)

In his oral evidence, Major Brierley stressed these points and said he should prefer the Jail Department being transferred to the Punjab Government and as to the Medical Department, he was of opinion that, economically, it would be better to transfer the whole of the Medical Department to the Punjab. (Volume II, pages 72-73.) Major Brierley's memorandum and his straightforward oral evidence (given at Abbottabad on the 30th May 1922) created apparently such an uncomfortable sensation in the mind of either the Secretary or the President of the Committee or both that the Secretary, presumably with the knowledge and consent of the President, but *without taking the sense of the Committee*, sent a copy of his memorandum and oral evidence to the Chief Medical Officer, North-West Frontier Province, requesting him to send "an expression of opinion on the proposals and suggestions contained in the written statement and oral evidence of Major C. I. Brierley, I.M.S., before the Frontier Enquiry Committee." The Chief Medical Officer asked, on the 15th July 1922, for the opinion of the Superintendent of the Peshawar Jail and along with his opinion forwarded his own to the Secretary of our Committee, who has inserted them between Major Brierley's memorandum and his oral evidence! The statements of these two officers are intended to detract from the value of Major Brierley's evidence, which cannot thus be discounted by the opinions of these two officers, which the committee had no opportunity of putting to the test of cross-examination. As to the Medical Department, even Sir John Maffey admits that there would be a saving by amalgamation with the Punjab as the post of the Chief Medical Officer "might be abolished without any countervailing officer being added to the Punjab establishment". (Volume I, page 110, lines 36 and 37.) Lieutenant-Colonel James, officiating Secretary to the Chief Commissioner, made the following admissions in his evidence in reply to questions asked by my colleague, Rao Bahadur T. Rangachariar:—

Q.—If this province were amalgamated with the Punjab you would have the advantage of all those officers in the Punjab, *viz.*, the Inspector-General of Registration, Director of Agriculture, Registrar of Co-operative Societies and so on: all these functions you are now performing as Revenue Commissioner, is it not?

A.—Yes.

Q.—By amalgamation with the Punjab there is the advantage of the agencies already existing there?

A.—Yes, certainly.

* * * * *

Q.—No Co-operative Society has been started. Do you consider it essential for the Province?

A.—I am in favour of it. Proposals are under consideration.

Q.—When you have considered the disadvantages arising from amalgamation, I wish you to consider the advantages accruing from it. The Education Department in such a small province is overmanned?

A.—I agree.

Q.—The Medical Department?

A.—I agree.

Q.—The Irrigation Department?

A.—I agree.

Q.—The Jails Department?

A.—I agree.

* * * *

Q.—Can the Agricultural Department safely go?

A.—I am not sure of the Agricultural Department, for this reason that it requires careful fostering. It wants a man on the spot to foster it.

Q.—Since we have referred to it, I want to know how many agricultural schools you have here?

A.—We have got a farm here, but no school.

* * * *

Q.—How do you expect to stand financially this year so far as your agricultural farm is concerned? Will it be a profitable concern? I see you have been working it at a loss of about Rs. 49,000. Surely by selling seeds, grain and young plants you should have made a profit?

A.—The pay of the Agricultural Officer and the staff will be the loss. You cannot include that. The experimental stage in the selection of wheat is over and we will now sell the seed, which has become popular." (Vol. II, pages 450-453).

It may be noted here that experiments and botanical researches have already been made in the Punjab in regard to wheat and there are two varieties known as Punjab-11 and Milne's 8-A, and in one year, 1920-21, the acreage sown under Punjab-11 increased from 377,500 acres to 634,000 acres. There are three experimental farms already in the Punjab—at Lyallpur, Gurdaspur and Hansi. Where was the need of spending money for the selection of wheat in an experimental farm in the North-West Frontier Province, when the result of the Punjab experiments and researches could have been availed of? In their commendable zeal to have provision made for as many conveniences as possible for this small province, the officers hardly seem to think of the burden on the central revenues that they thereby impose. Several witnesses have pointed out the enormous amount of something like 7 lakhs of rupees spent in erecting a huge building for the Training College of the province at Peshawar, the annual expenditure of which is said to be about Rs. 25,000, and the net result of all this is that there are only 6 or 7 students studying in the second year class. "If these 6 or 7 students could go to Lahore, I think the expenditure would be," said a witness, "about Rs. 3,000 a year." I do not think it is necessary to dilate on this point. I have been shown something in the Finance Department on the statements prepared by Mr. D. N. Dutt of the Audit Department, of the revenue and expenditure of the North-West Frontier Province from 1918-19 to 1922-23, which is to the effect that the administration has very little real incentive for economy. That is true enough. But the fact of the matter also is that, in a miniature province like this, either the people have to lag behind in progress, or, if they have to make any headway, a properly equipped administrative machinery has to be set up at comparatively too heavy expenditure, both initial and recurring. And so

some of the thoughtful witnesses before the Committee urged that, if not to-day, at no distant date, the Government of India, out of sheer financial considerations, if not any other, will have to re-amalgamate the five settled districts of this province with the larger administrative unit of the Punjab.

31. The majority, in paragraph 5 of their Report, in giving their "general impressions" regarding "the main currents of opinion" on the question of reamalgamation of the settled districts with the Punjab, have given a version, which is not supported by the record before the Committee. Before proceeding to shew that it is incorrect and inaccurate, it is necessary to quote what they have asked the Government of India to believe. Here is the passage in which their "general impressions" are embodied :—

Public opinion of the province, urban and rural, favours reamalgamation with the Punjab.

"We made no attempt to count heads. We endeavoured to follow up the main currents of opinion, to gauge the strength of the opposing forces and to probe the validity of the arguments that impelled them. We found two main currents. *Hindus and towns are generally in favour of amalgamation. Muslims and villages are generally in favour of a separate province.* There are of course cross currents. Thus many Muslims especially in the towns favour amalgamation; many Hindus especially in the villages on the border are against it. But the courses of the main currents are well-defined, and if the question were to be decided by numbers only, the vast preponderance of the rural and Muslim population over the urban and Hindu population would have enabled us to cut our labours short by a summary verdict against amalgamation." (Italics are mine).

It is difficult at first sight to understand the majority's curious classification and division of "Hindus and towns" on the one hand and "Muslims and villages" on the other. But what they mean to convey is apparent from what they say in paragraph 37 of the Report :—

"But whereas most of the *Hindus of the province, and the urban Hindus in a body*, demand satisfaction of their political aspirations in a larger entity, *the majority of the Muslims, and the Pathans almost to a man*, will not be content with the fulfilment of their political aspirations save within their own province. *We felt this cleavage between Hindu and Muslim on the frontier.*"

And in paragraph 51, the majority make their meaning clearer still, when they unburden themselves in these terms :—

"The prospect on the Frontier if all-India interests are tampered with and an attempt is made to crush the Pathan's will for self-determination in order to gratify the supposed interests of a tiny minority, we decline for our part to contemplate."

It is clear from the passages quoted above that the majority ask the Government of India to believe that the demand for re-amalgamation with the Punjab is in reality the demand of the "tiny minority" of the Hindus of the Province only, and that "the majority of the Muslims and the Pathans almost to a man," or, as they put it, "Muslims and villages" are against amalgamation and "are for a separate Province." And to show how insignificant the "tiny minority" is, they quote, in a foot-note to paragraph 5 of their Report, the figures from the census of 1921 of the total, urban and rural, population of Muslims, Hindus and Sikhs. Their figures include, of course, both males and females.

32. I question the correctness of the view which the majority have given to Government of the real character of the public opinion of the Province on this question as also of the method and the view-point which they have adopted in advising Government on this matter. Before showing, however, what that

public opinion really is, I will invite the attention of Government to a few figures which may enable them to approach the consideration of the subject with a correct perspective and from the right point of view. The following figures are taken from Tables VIII and IX of the 1921 Census Report, Part II, of the North-West Frontier Province :—

	Males.	Literates.	Literates in English.
Pathans	4,80,172	11,142	1,447
Saiads	47,671	2,259	379
Other Muslims	5,91,536	18,925	2,153
Total Muslims	11,22,379	32,326	3,979
Hindus	1,14,122	36,718	5,078
Sikhs	23,161	10,860	963

The figures for those who are of the age of 20 *and over* are as follows :—

	Males.	Total.	Literates.	Literates in English.
Muslims		5,71,824	22,584	2,598
Hindus		78,387	29,014	3,951
Sikhs		16,317	8,856	788

In volume III of our proceedings there is a tabular statement (Appendix No. 16) at page 44, showing in Rupees the amount of Income-tax paid by Muhammadans and Hindus residing in towns and cities which have got Municipal Committees in the North-West Frontier Province, from which the following figures are extracted :—

District.	Income-tax paid by Muhammadans.	Income-tax paid by Hindus.
Peshawar	28,520	94,487
Hazara	5,969	70,980
Kohat	9,998	37,322
Bannu	2,644	35,464
Dera Ismail Khan	10,682	1,19,315
Total	57,813	3,57,568

Thus the "tiny minority" of Hindus pays more than 6 times the amount of the Income-tax paid by the Muhammadans, or not less than 86 per cent. of the total Income-tax collected from the towns and cities in the five districts mentioned above. They form a large body of literates in the Province, much larger than the number of literates which the whole of the Muslim community in the Province can lay claim to. As tax-payers contributing so largely to the central revenues and constituting such a large percentage of men of education and culture in the Province, the Hindus did not deserve the contemptuous treatment which the majority have accorded to their views, supported, as they are, as the record before the Committee shows, by the bulk of the Muslim intelligentsia of the Province, in preference to the *supposed* views of "Muslims and villages," that is to say, of the vast illiterate Muhammadan population of the Province. I use the word "supposed" deliberately, because I propose to show that the Muslim opinion of the districts is more *for* than *against* amalgamation. Personally I do not attach weight to this opinion as I do not think that the political, administrative and financial questions involved in the Committee's terms of reference are at all capable of being understood by people of this class. I entirely agree with what was urged before the Committee by a well-educated Pathan witness, Qazi Mir Ahniad Khan, B.A.,

LL.B., Vice-President, Municipal Committee, Peshawar, General Secretary of the Joint Committee of the citizens of Peshawar, and Secretary, Bar Association, Peshawar, who, after pointing out that "an attempt has been made by the votaries of the present system to get those who are called "khans" by the officials to say that they are quite happy under the present system of administration," proceeded to make the following observation:—

"Here the case is that one system of government is superior to another under the same State and the five districts have already been weaned from the superior system. The State wants to know whether they should be restored to that system again or not. *It is not for the uneducated to decide it.* It is for the educated to submit their views on the working of the administration and even if the uneducated were to say that they do not want the superior system it is the duty of the State to give them the best government they can." (Vol. I, page 325).

As I have already said, this coincides with my view. However, as the majority have attempted to represent to Government that "Muslims and villages are for a separate Province," I proceed to show that this assertion is contrary to the facts brought out in the course of our enquiry. The Committee received numerous memorials from Muslims and Hindus residing in the districts of the Province. They have been classified, tabulated and summarised in Vol III of our Proceedings. I omit the Hindu memorialists from the summary (Vol. III, page 90) and take only the Muslim portion of the memorialists and the result is as follows:—

No.	District.	Muslims for amalgamation.	Muslims against amalgamation.	REMARKS.
1	Peshawar District	4,494	181	The 181 Muslims have laid down certain conditions. If these cannot be fulfilled, they are <i>for</i> amalgamation.
2	Kohat	1,390	715	
3	Bannu	1,365	6	
4	Dera Ismail Khan District	381	1,421	
5	Hazara District	2,916	1,055	
Total for five Districts		10,546	3,378	

If we take the total for the preponderantly Pathan Districts of the Province only, namely, Peshawar, Kohat and Bannu, we find that 7,249 Muslims are *for* amalgamation and 902 only are *against* amalgamation. Out of these 902, the Peshawar lot of 181 in a block demands certain conditions to be fulfilled, failing which they join in a body their brethren who are *for* amalgamation. One of the conditions is that "they should be given free land to settle upon, whenever there are new lands in the Punjab or elsewhere designed for this purpose." One remarkable feature of this vast preponderance of "Muslims *for* amalgamation" over "Muslims *against* amalgamation" is that this has taken place inspite of the fact that Tahsildars went about taking signatures of villagers to petitions *against* amalgamation. Groups of ignorant villagers were brought before the Committee, in all seriousness, as exponents of the rural view against amalgamation, led very often by Khan Bahadurs, M.B.Es., O.B.Es., or other title-holders! The poor villagers, when asked who drafted or wrote out their petitions, or before whom they signed them, blurted out the truth; e.g. :— One group:—

"We all came to the Tahsildar and asked him to give us a man who wrote it for us and sent it to the Deputy Commissioner. It was written out. The Tahsildar called me and then I signed it. Then we sent it to the Deputy Commissioner." (Vol. I, page 416.)

Another group :—

“We are illiterate, but the Tahsildar asked me that we should put in writing what we had to say. We told him that he should draft the petition for us and after drafting the same he read it to us: We authorised the Tahsildar to act as Munshi for us for the time being. He drafted the petition for us, and after he had read it out to us we signed it.” (Vol. I, 446; see also pages 447, 448.)

Some of these poor villagers, when questioned as to what was contained in their petitions, said that they did not know, or that they never signed the petition or that they did not agree to what was read out to them as a portion of the petition. At Kohat, I was greatly amused when I received from our pains-taking Secretary copies of two petitions, each of five type-written sheets, one purporting to be signed by one set of representatives of some villages and another by another set of representatives of some other villages, but *both identically the same, word for word!* The explanation is obvious. The Tahsildar was abroad! Some of the villagers said that they were against amalgamation, because “we got alarmed and thought we would be disarmed and that all Government rifles and other weapons would be taken away.” When asked who told them that this would be the result they said “it is a general belief.” (Volume I, page 479.) Others, although they came and said that they were against amalgamation, admitted that “*with the exception of a thousand or two*” of the Musalmans of his district, all the others were against amalgamation. (Vol. I, page 413.) “There are many Zemindars in my village,” said another witness “who are in favour of amalgamation.” I will now put to another test the majority’s representation to the Government of India that “Muslims and villages are for a separate Province” and that in this matter the “cleavage” is between “Hindu” on the one hand and “Muslim” on the other. There are several witnesses, I will choose only a few, whose testimony shows beyond a shadow of doubt that Muslim rural opinion, including *Pathan* opinion, is more *for* than *against* amalgamation.

33. M. Moaz Khan, Lambardar of village Bhana Mari, a respectable grey-headed old gentleman, belonging, as he said, “to the family of *Orokzai*

Pathans,” “who came from independent territory in the time of Shah Jahan Badshah,” urged that “the five administrative districts may be separated from the five agencies” and requested “that the administration of the five districts may be amalgamated with the Punjab as it was in the year 1899.” “I want this province to go back to the Punjab” he said. Asked by my colleague, Mr. Rangachariar,

“Q.—Is this view of yours shared by other Pathans?” He answered :—

“A.—This is the opinion of most Pathans, other than Khan Bahadurs. *Zemindars and poor people entertain this view.*”

My colleague, Chaudhri Shahabuddin, asked :—

“Q.—How do you say that except the Nawabs, all Mussalmans of this district are in favour of amalgamation?”

His answer was :—

“A.—I am a resident of Bhana Mari and I ask every body who passes and they tell me.”

The witness, when asked, whether he considered the province was large enough for a Legislative Council like the Punjab, answered :—“I do not consider it a practical proposition”. Asked further, “Supposing this province was given a more efficient administration which cost more, would the people bear additional taxation?” he said :—“The province is too poor to bear increased expenditure. It cannot do without the Punjab.” (Vol. I, pages 375-377.)

34. Risaldar Sajid Gul (Retired), Syed Sikandar Shah and Malik Latif

Kohat District Pathans. Khan, bringing with them a Hindu villager also, by name, Lala Damodar Das, came before the Committee as representatives of Khattack *Ilqua* of the Kohat

District. Malik Latif Khan, of Lachi, presented a memorandum signed by 182 signatories belonging to several villages in their *Illoqua*, urging re-amalgamation with the Punjab, in the last paragraph of which they said ;—"We beg to point out that any other different statement received by the members of the Committee would be from such people as do not represent the race. It must have emanated from those only who enjoy special advantages in the present régime." Their spokesman, Risaldar Sajid Gul, gave reasons why they wanted re-amalgamation with the Punjab. In answer to a question asked by the President, he said :—

"I want to be amalgamated with the Punjab. I have two objections for remaining separate ; in the first instance, we have not got men competent and qualified to sit in the Council and therefore we want to have training for 20 or 30 years in the Punjab. In the second place, we have no money to meet the additional expenses for the establishment of Councils in this province. The third difficulty is about language and customs. We do not agree with the Khan in his view. The people of the Punjab are more advanced and they will come here in large numbers and conduct schools and colleges. That will be the benefit which they will draw from the Punjab. I can cite the case of Muhammad Ashraf who is a Punjab pleader and who has come here and taken up the cause of education. He has been the chief cause for the establishment of the Islamia High School in Kohat town. If we are connected with the Punjab there will be many advantages."

He was asked how many people from his *Illoqua* were in favour of this view, and he answered that "*Sixty per cent.*" of the people of his *Illoqua* were in favour of amalgamation. (Volume I, pages 471-472.)

35. At Bannu, we were again left to draw our own inferences from the groups of villagers headed by Khan Bahadurs as their leaders and spokesmen brought before us. One group was headed by Khan Bahadur Zaffar Khan, claiming to represent the views of the Marwat clan. Unfortunately for the view of the majority, the very first sentence of the memorandum of this group urged :—

"The five settled districts of the North-West Frontier Province should be separated from the Political Agencies and the Frontier Crimes Regulation may be enforced in the Political Agencies."

Then they asked for the province not to be re-amalgamated with the Punjab. As to the Legislative Council for the province, the following Questions and Answers will serve to give to the Government of India an idea as to how far the majority's proposals for full-fledged reforms are supported by the Pathans themselves :—

Q.—Therefore your scheme is for having to-day inaugurated in this province the whole of the reform scheme that obtains in the Punjab at this moment ?

A.—Yes.

Q.—That is to say, a Legislative Council with an overwhelming elected majority, first ?

A.—No, members nominated by Government should be more in this Council than the elected members.

Q.—Therefore it follows that you do not want for this province the same reform that obtains to-day in the Punjab ?

A.—The people of this province have got factions between them and that might lead to something wrong.

Q.—That means then that you do not want in this province a Legislative Council formed on the same lines as in the Punjab ?

A.—Nominated members should be more than the elected members, otherwise there will be many quarrels and feuds." (Volume I, page 587.)

The Secretary of the Anjuman and three others appeared before the Committee at Bannu. They were all members of the Far but three of them said they appeared as "representing the Moslem community". They summed up their view in these terms:—

"We want complete amalgamation, failing which, we shall wish for judicial amalgamation if the internal arrangement not merely of appeals, but of the judiciary also is vested in the High Court. If that is not feasible then we do not want judicial amalgamation but complete reforms in our own province. This was our unanimous opinion." (Volume I, page 611.)

But these gentlemen voiced what may be called the view of the Muslim intelligentsia. There came, however, before us at Bannu two Muslim non-co-operators to assist the Committee with their views on our terms of reference although it was against their avowed political creed to render such assistance to a body appointed by Government. There can be no gainsaying that non-co-operators, on account of their constantly moving among the masses, are in a better position than most of those educated persons who live in towns to know what the real feeling of the masses is on topics of general importance. The senior of the two in his oral evidence stated:—

"The unanimous opinion of the people of this district is that this province should be amalgamated with the Punjab. Even the Khans and others want this province to go to the Punjab." (Volume I, page 617.)

I need not repeat the remark I have already made that personally I do not attach weight to what the mass of the illiterate people think on the subject of our enquiry. I am only placing before Government material to enable them to judge for themselves how far the majority are justified in representing to them that the demand for amalgamation is only a Hindu cry and that "the majority of Muslims, and the Pathans almost to a man"—"Muslims and villages"—are against amalgamation and "are for a separate province".

36. Here is the testimony of "Multani Pathans" of the Dera Ismail Khan Districts. Their memorandum submitted by Nawab Habibullah Khan before the Committee is printed at pages 701 to 707 of Volume I of the Committee's Proceedings. At pages 706 and 707 will be found a list of 32 signatories at the end of which the following remark is made:—

Dera Ismail Khan District.
"Multani Pathans" of "every tribe"
are "unanimously in favour of"
complete amalgamation."

"N.B.—This list includes all Multani Pathans of every tribe and all of them are unanimously in favour of complete amalgamation."

The memorandum contrasts the state of things which prevailed immediately before the separation from the Punjab with the state of things which has come into existence since. "The roads were then quite safe, life secure and dacoities absent." "I often travelled from Dera to Tank at night during the summer season with safety and without an accident." Now such a state has been reached that "travelling by road from Dera to Bannu, from Dera to Tank and various other roads" has become "unsafe and insecure". "Life of the Hindus being the most unsafe, they have deserted their original homes and have now mostly settled in Bhakkar, Kalurkot, Darya Khan, etc., in the Punjab and in Dera proper". How things were managed by the Punjab Government, how expenditure has now considerably increased, how raids cannot be stopped unless these trans-border tribes are blockaded, etc., etc., is then dealt with and the memorandum proceeds to say:—"Twenty years of the administration of the Frontier Province has convinced us of the necessity of immediate change". In his oral evidence the Nawab gave it as his opinion that he was against setting up any local Legislative Council, as it would be expensive and that a separate University would also be useless expenditure. He urged that the five districts had "gone back instead of progressing" since they were formed into a small separate Province and he favoured the idea that in case of re-amalgamation with the Punjab, "the small agencies which are at present under the Deputy Commissioners" may go over to the Punjab "It would

be a good thing if they go to the Punjab". "But", he added, "it depends on the choice of the Government of India". "Reprisals in order to be useful should be," he said, "carried out in the agencies". Asked what policy he would recommend in regard to the trans-frontier tribes, he said:—"Yes; military occupation is desirable, but Political Agents are necessary. The military force including the constabulary should remain at the disposal of the Political Agents, because whenever an opportunity occurs these tribesmen will even shoot the Political Agent also". "In other words, you mean that you cannot trust the independent territory people" he was asked, and he answered:—"No, I cannot trust them". He was strongly in favour of judicial amalgamation with the Punjab under its High Court, on the grounds that "judicial work will be better done and people will get better justice", and he agreed that "the general tone of the service will be better". He was President of the Public meeting held at Dera Ismail Khan in May 1922, which, he said, was well attended and the majority of the people present at the meeting were Mahomedans. With one dissentient, the meeting passed a Resolution in favour of complete re-amalgamation of the Province with the Punjab. (Volume I, pages 707-724.)

There appeared before the Committee the Chief of the famous Gaudapur Tribe of Pathans to give evidence in favour of re-amalgamation with the Punjab. If anybody could legitimately boast of "an aristocratic descent and pure unalloyed Pathan blood running in his veins," or rightly took pride "in the quality and quantity of the tribe" of which he was the honoured Chief and who could claim to be "the biggest Zamindar in the District," it was this witness. He had submitted a memorandum written by him in English in which he advocated re-amalgamation of the Province with the Punjab because, as he put it, "Policy demands it; Justice calls for it; Humanity is interested in it; Economy desires it; Law of self-preservation needs it." He was asked by me whether he could say what the opinion of the majority of the Mussalmans in the District was on this matter, and he answered:—

"So far as my knowledge goes, the majority of the Mussalmans desire amalgamation with the Punjab."

37. The very first witness at Abbottabad, Rai Sahib Permanand, whose family has settled in the District since 1860, and who has been practising at Abbottabad as a Barrister-at-Law for 20 years, said, in reply to a Question by the President:—

"The general opinion of the public, if one goes to villages, if one talks with Khans, lambardars, they all say they would like to go to the Punjab, rather than remain with this province. That is the general opinion."

My colleague, Rao Bahadur T. Rangachariar, pursued the matter further, with the result given in the following Questions and Answers:—

"Q.—You spoke about the general opinion of this district; on what do you base your belief that the general opinion is in favour of re-amalgamation?"

A.—The one reason is that we come in contact with nearly all classes of people and from the opinions gathered we came to that conclusion. There is nobody who feels satisfied that he is better off by remaining separate from the Punjab. Since the time the Enquiry Committee has been established, these are the signatures which people have sent from villages, saying that they are all for amalgamation with the Punjab.

Q.—Who collected those memoranda?

A.—These memoranda were written by some of the residents of those places, some were sent to the Bar Association, some Pathans sent them from their own villages to the Secretary, Bar Association, or to me, or to other people who gave them to us.

Q.—Do you want to file them ?

A.—Yes. That is the general opinion. We have spoken to the Khans and big people, who have told us that if we wanted their opinion they were *for* amalgamation ; but if they had to give an official opinion they could not give their true opinion because the officials were on the side of non-amalgamation.

Q.—What do you mean by official opinion being known to be against amalgamation ?

A.—It is a well-known fact, and I think people know very well that even the Chief Commissioner has expressed the opinion that there should be no amalgamation.

Q.—Why should that weigh with the people ?

A.—Because the Khans or Khan Bahadurs who are in touch with the officials think that whatever opinion the officials have, it will be to their interest to express that opinion in accordance with the views of the officials, but I know of many who have expressed themselves differently, and when they are directly asked, they say, we are with you, *we do want amalgamation.* ”

Then he refers to “ a notice issued by all the tahsildars from Haripur, Abbottabad and Mansehra to various Khans and members of district boards that they should come on the 23rd April to Abbottabad. ” The result was contrary to what was anticipated by the poor tahsildars, for out of the 45 gentlemen who came to Abbottabad in response to that notice, 34 persons made their signatures in favour of amalgamation ! A public meeting was then called and held in the Municipal Gardens at Abbottabad under the Chairmanship of Maulvi Sultan Mir, at which *the Deputy Commissioner himself came and made a speech, explaining the issues involved in the Committee's Enquiry.* The *pros* and *cons* were thus discussed and, after several gentlemen had taken part in the discussion, *resolutions were unanimously passed in favour of re-amalgamation with the Punjab.* The meeting was largely attended by the Mahomedans of Abbottabad. (Volume II, pages 6—8.)

Another witness, Rai Sahib Dewan Chand, Government Pleader and Public Prosecutor, Peshawar, gave the Committee also an insight into what the public opinion of the district really was.

He had referred to it in his memorandum and in regard to it, he was asked some questions.

“ Q.—You say in your memorandum, paragraph 9, that the resolution passed at the public meeting in the Hazara District by all classes of the inhabitants, including Raizes, Khans and the like, indicates fairly enough to the unprejudiced mind that the people of this district would be extremely glad if the Government saw fit to amalgamate the five settled districts and so on. I take it that in your professional capacity you come in contact with all sorts and conditions of men ?

A.—I have spent nearly 25 years in Hazara District, and every man, big or small, who has anything to do with the courts here, has had some connections with me. They always open out their minds very freely to a pleader and not to officials ; we know what their real opinions are, and that is what I understand their feelings to be.

Q.—In the case of both Hindus and Mahomedans ?

A.—Certainly.

Q.—Your estimate is that the bulk of the people here are for amalgamation ?

A.—It is only one small class, the Khans who perhaps are opposed to it outwardly. Even they do not express themselves like that to us, but they find their self-interest on the other side.” (Volume II, pages 157—158.)

At Mansahra, in the Hazara District, a public meeting, *not only of the townspeople but of the people of the whole elaka*, was held on the 24th May, at which a Resolution asking for re-amalgamation with the Punjab was passed and that public meeting deputed Mr. Ghulam Rubhani, B.A., LL.B., of Mansahra, to submit their views before the Committee in favour of the Resolution they had passed. (Volume II, page 295.)

38. I do not think I need pursue this point any further. What I have already brought to the notice of Government so far is enough, I trust, to convince them that the majority have made an attempt to give them a wrong idea altogether in asking them to believe that this is all a Hindu cry, and that "Muslims and villages"—"the majority of the Muslims and Pathans almost to a man"—are against amalgamation and are for a separate Province, and thus, as they put it, there is a "cleavage" between "Hindu" on the one hand and "Muslim" on the other in the Frontier Province on this question. But that is not all. The majority go further and make use of this *supposed* "cleavage between Hindu and Muslim on the frontier" to *insinuate* in their Report that the dissent of Rao Bahadur T. Rangachariar and myself from their recommendations is attributable to our being *Hindus*, who, as such, have allowed ourselves to be swayed by our sympathy with Hindus and our antipathy to Muslims! (*Vide* paragraph 37 of the Majority Report.) Nothing could be a grosser misrepresentation of our attitude than this. Even assuming the majority's estimate, such as it is, to be true, it only amounts to this, that "the majority of Muslims" is against amalgamation; *ex hypothesi*, a minority of Muslims is in favour of amalgamation. That being so, it is surely wrong to say that the "cleavage" in the Frontier Province is between "Hindu" on the one hand and "Muslim" on the other.

39. There is hardly any need to write at length about the public opinion of Urban Muslims. That it is strongly and overwhelmingly in favour of amalgamation is made abundantly clear by the testimony of educated non-official Muslim witnesses and by the proceedings of the various public meetings held at Abbottabad and Mansehra in the Hazara District (to which reference has already been made), at Dera Ismail Khan, at Kohat and at Bannu, all presided over by prominent Muslims and at all of which, Muslims vastly predominated and took a leading part, as also the meeting held at Peshawar at the house of the biggest Mussalman of that city, Khan Bahadur Seth Karim Baksh, at every one of which, resolutions in favour of complete re-amalgamation with the Punjab were enthusiastically passed. The Resolutions passed by all the Bar Associations of the Province at Peshawar, Mardan, Bannu, Kohat, Dera Ismail Khan and Abbottabad, urging the imperative necessity and desirability of placing the judiciary and the judicial administration of the Province under the control of the High Court of Judicature at Lahore, in other words, of judicial amalgamation of the Province with the Punjab, voice the views held by the Muslim intelligentsia also on this subject throughout the Province. The idea of complete re-amalgamation with the Punjab is not a new phase of thought in the settled districts. Public expression was given to it in 1912 in memorials to His Excellency Lord Hardinge, who was then the Governor-General and Viceroy of India. Saiyed Jalal Shah and 180 others of the Hazara District sent a memorial to the Viceroy urging the "reversion" of the District to the Punjab and supporting the demand of the people of Dera Ismail Khan District as contained in their memorial. This latter memorial contains arguments the force and cogency of which have increased and become all the more apparent now by the experience of the ten years which have elapsed since the date on which it was written. The memorialists, in making out their case in favour of re-amalgamation with the Punjab, urged, among other points, the following:—

"While creating this province it was the express wish of His Majesty's Secretary of State for India to maintain the frontier districts at the stage of the administration already reached; but the experience of full eleven years has proved that we are not where we were before the separation, on the other hand, we have been thrown some fifty years back."

"All the advantages of the province like the Punjab and the United Provinces are denied to us. While in the Punjab we could compete for the prize posts, could rise up to the Council, join the University Senate, and could rise hand in hand with our brethren of the Punjab, not a single boon is left to us here."

"Again, this miniature province of only five districts could not scientifically be so efficiently administered as it would be if it was a part of the bigger province."

"The officers are almost all recruited from the Political Department, and they are generally handicapped in their judicial and executive work of the settled districts by the exigencies of the political work. Even the Head of the Province has very little leisure left to him to give his undivided attention to the administration of the settled districts and the affairs of the trans-frontier and border tribes absorb much of his time and attention."

"The main purpose for which the province was created, viz., to safeguard the life and property of the British subjects against the raids of the trans-frontier tribes, does not, in our opinion, seem to have been accomplished, as the recurrence of so many raids and dacoities of late proves it."

"Our humble prayer, therefore, is that.....the claims of the five settled districts of Hazara, Peshawar, Kohat, Dera Ismail Khan, and Bannu, to be re-united to the Punjab, be favourably considered, and if the exigencies of the Political Department so require, a separate Residentsip for the Political posts of Dir, Swat and Chitral, Malakand, Khyber, Kurram and Tochi and Wana, be created to work under the Commissioner or in direct communication with the Government of India, but the administration of the five settled districts, that were separated from the Punjab, by not a very wise policy, be again re-united with the Government of the Punjab"

This was the view of the educated and thinking portion of the public in 1912. Since then this desire for re-amalgamation has become widened and strengthened in all the urban areas of the Province to an enormous extent, as evidenced by the public meetings held at all the important towns and cities of the Province and by the views urged before the Committee by non-official educated Muslims, who made it clear to us that it was impossible for this miniature Province to make real progress by remaining a separate entity and that, if any attempt was made to set up in it the complex machinery of reform, it would prove too expensive and too burdensome to the central revenues. There were no doubt a few Muslim witnesses who urged that they would like to have reforms within their own Province without being joined on to the Punjab. I asked a stock question to all these witnesses to the following effect: "Suppose for want of funds or disinclination on the part of the authorities to grant you these reforms, or for other reasons, it was not possible for you to have them, what would be your attitude?" Some answered that as they were the gate-keepers of India, they were entitled to get from the central revenues all the expenses needed for their progress and development as an autonomous province. But the majority of such witnesses answered that in that case, they would certainly like to be re-amalgamated with the Punjab. Perhaps the strongest advocate of the Province being kept separate and not merged in the Punjab was Sir Abdul Qayum. Even he, when asked a similar question by Mr. Rangachariar, had to admit the force of the financial objections to his view. I give below the Question and Answer on the point:—

"Q.—You know of the present financial difficulties in India. Having regard to military requirements and other things, supposing it is not a feasible proposition for the Government of India to make this large financial contribution necessary to set you up as a self-contained province—you will admit that it must be a very large sum—supposing that it is not a practical proposition, would you prefer to remain as you are or have you any alternative to suggest?"

A.—Well, that is a very serious question, because in the address to the Viceroy our representatives said that we do not wish being merged in the Punjab provided we were given all the privileges. *In that case*, I won't say the majority of the population because the majority is made up of the rural people, but *the majority of the educated classes would like to go the Punjab.*" (Vol. I, page 9).

Sir Abdul Qayum was the first witness examined by the Committee. He had little idea when he gave his evidence that some of the younger Muslim representatives of the educated classes who followed him would press for amalgamation in the first instance and failing it, reforms within the province. Other educated young men of the Muslim community, with a clearer grasp of the problem, urged that amalgamation was the only remedy and that reforms within the province would not cure the evils from which their administration suffered nor were they possible in a small province like theirs both administratively and financially. Perhaps the most thoughtful and forceful exponent of this view of the younger generation of educated Muslims was Khan Sahib Saduddin Khan, leader of the Peshawar Bar. He urged that "the best results could be obtained at the least expense only by amalgamation with the Punjab." The whole of his evidence is worth reading. (Vol. I, pages 59-74). He made a valuable contribution to the discussion of the questions before the Committee. I will draw upon his evidence on some points in the next few paragraphs, in which I proceed now to deal with the question of judicial re-amalgamation with the Punjab.

40. The majority, in paragraph 48 of their Report, refer to the existence

Judicial Re-amalgamation.

of certain "galling" restrictions on the Bar of the Province and say that "their continuance is not only unnecessary but improper." Those restrictions are chiefly three: "The insistence on the renewal of licenses from year to year; the restriction of licenses to a particular place of business, and vesting of the power of revision of the Judicial Commissioner's decisions in the Local Government". The majority rightly "advise that all three restrictions be removed". Then, in paragraph 49, in which they condemn the proposal for Judicial re-amalgamation, they observe: "We have little doubt that resentment over these galling restrictions has been largely responsible for the lead taken by the Bar in the advocacy of re-amalgamation with the Punjab. They certainly impart some show of reality to the otherwise seemingly unreal clamour for judicial amalgamation as against internal judicial reforms". The main internal judicial reform that they propose is a "Bench of two Judicial Commissioners". It is a *travesty of the views of the Frontier Bar* to say, as the majority do, that the lead taken by them in the advocacy of re-amalgamation with the Punjab is due largely to the existence of the galling restrictions referred to above. The demand which the Bar make on this subject is *not* due to any *personal* grievances of their own, either individually or as a body. On the contrary, from the point of view of personal and pecuniary considerations, they stand to lose rather than to gain by judicial re-amalgamation with the Punjab. The province is a preserve for them at present. Judicial fusion with the Punjab will expose them to competition and is sure to touch their pockets. It is not the existence of the restrictions, against which they have naturally complained, on which their demand is really based. They base it, in a spirit of "unselfishness and sacrifice of personal interests", on the broad grounds of the best interests of the administration and the public, as is clear from the Resolutions of the Bar Associations and the evidence given by prominent members of the Bar before the Committee. Here are the Resolutions of the various Bar Associations:—

Peshawar Bar Association.—"In the opinion of the Peshawar Bar Association it will be *immensely beneficial both to the administration and to the public* if the judiciary of this province be placed under the control of the Lahore High Court."

Mardan Bar Association.—"The members of the Bar Association, Mardan, are unanimously of opinion that in *the best interests*

of the administration and of the public, the judiciary of the North-West Frontier province be placed under the direct control of the Lahore High Court".

Bannu Bar Association.—"In the interests of justice and the well-being of the people of the Frontier Province, it is imperatively necessary that judicial administration of the province be re-amalgamated with that of the Punjab, and this Association strongly supports Sir Sivaswami Aiyer's resolution in its entirety."

Kohat Bar Association.—"This Association considers the re-amalgamation of the judicial administration of the North-West Frontier Province with that of the Punjab as *absolutely necessary* and of *immense benefit to the whole public* of this province."

Dera Ismail Khan Bar Association.—"This Association agrees with the Peshawar Bar Association that it will be *immensely beneficial both to the administration and to the public* if the judiciary of this province be placed under the control of the High Court of Judicature at Lahore".

Abbottabad Bar Association.—"It is resolved and passed unanimously that the members of the Bar Association, Abbottabad, are definitely of opinion that it would be in the *best interests of the province as a whole* if the judicial administration of the province be transferred to the control of the Lahore High Court. The members of the Bar are further in full accord with the spirit of Sir Sivaswami Aiyer's resolution".

It will be seen from the above that all the Bar Associations of the Province lay stress on the necessity and desirability, in the public interests, of bringing the whole judicial administration, which necessarily includes the judiciary, of the Province under the direct control of the chartered High Court of Judicature at Lahore. The judiciary of the Province cannot be independent of the executive unless it comes under the control and supervision of the High Court of Lahore, which is independent of the executive. So long as the judiciary is under the control of the executive, the efficiency of the judicial administration is bound to be prejudicially affected. If the Province is judicially amalgamated with the Punjab the prospects of the judicial officers will depend on the quality of their judicial work which will come under the direct supervision of the High Court. The decisions of the High Court will naturally command greater confidence than the decisions of even a Bench of Judicial Commissioners, whose appointment to the posts will depend upon the Chief Commissioner's choice. The subordinate judicial officers through whom the Judicial Commissioners have to carry on the judicial administration will owe their appointments, promotion and prospects in the service to the executive, as at present. Thus the root-cause of the evil will remain unaffected unless and until the control of the judiciary and all the various details of the judicial administration of the Province are regulated by the High Court in accordance with its own rules and regulations and powers of control and supervision vested in it by its Letters Patent. The proposals of the majority do not remedy and cannot remedy the inherent evils of a judiciary intended for and confined to a very small area treated as a self-contained unit. The subordinate officers can never acquire variety and width of experience. Bad or inefficient officers cannot be easily got rid of. The stimulus applied by competition or emulation with abler men will be wanting. The tone of the service, the quality of judicial work and the confidence of the litigating public in the administration of justice cannot undergo a change for the better by the proposals of the majority. The transfer of the judiciary and the judicial administration of the Province to the High Court of Judicature at Lahore will, on the other hand, bring about a marked improvement in all these matters.

41. The majority have proposed a *Bench of two Judicial Commissioners*. But the question is whether there is enough work for two Judicial Commissioners. The transfer of the judiciary and the judicial administration of the Province to the High Court of Judicature at Lahore will, on the other hand, bring about a marked improvement in all these matters.

Saduddin Khan was asked a question on this point by my colleague, Chaudhri Shahabuddin :—

“Q.—What is your opinion of the Judicial Commissioner? Do you think there is sufficient work for two or more to be appointed?”

A.—*My honest opinion is that there is not enough work for two Judicial Commissioners.*”

In another part of his oral evidence, he said :—

“The arrears are due to certain circumstances. *Two years ago one Judicial Commissioner disposed of all the work and he only worked practically half the day.*”

The witness was asked further questions by Chaudhri Shahabuddin on the same point and the answers given by him are interesting and instructive :—

“Q.—Are you not giving your opinion on the assumption that even when there are two or more Judicial Commissioners they will sit singly? Suppose the civil and criminal appeals, which are at present disposed of by one Judicial Commissioner, are heard by a Bench composed of two Judicial Commissioners. Don't you think in that case there would be sufficient work for two Judicial Commissioners?”

A.—As you know perfectly well, *up to this time, we have not got the law of second appeal. Our laws stand still just as we separated from the Punjab.* We have the law of further appeal and revision. The majority of cases which come before the Judicial Commissioner are revisions; there are *very few further appeals and fewer still first appeals.* In revision, until and unless there is an important question of law, about which there is some doubt, it would be hardly advisable for the two Judicial Commissioners to sit on the bench, but if in every revision you expect two Judicial Commissioners, then you might have four or five Judicial Commissioners.

Q.—But if your civil law in your province is assimilated with that of the Punjab; and you are given the right of second appeal?

A.—In that case too, I am of opinion that there would not be much work to do. After all, there are *very few cases which go up to second appeals.*” (Volume I, pages 69 and 70.)

Independent testimony to the same effect is available in the Note submitted in writing to the Committee by Mr. A. L. Gordon-Walker, Barrister-at-Law, I.C.S., Registrar, High Court of Judicature, Lahore, in the course of which he observes :—

“One must not forget that in the Judicial Commissioner's Court, in 1919 and 1920, only 27 and 20 respectively, first appeals, were disposed of, whereas, during the same years, 175 and 125 first appeals were disposed of in the High Court.”

To this is added the following :—

“N. B.—*In this connection we might note that it appears doubtful whether the Judicial Commissioner has even enough work for one Judge.*” (Volume II, page 610).

Mr. Gordon-Walker's point gains in emphasis when the figures for first appeals are analysed into those (a) Rejected at the preliminary stage, and (b) Admitted and disposed of after notice to the respondents. For the year 1919, the total number of first appeals was not 27, as he says, but only 24, of which 6 belonged to class (a) and only 18 to class (b). In 1920, 3 belonged to class (a) and only 17 to class (b). In 1921, 8 belonged to class (a) and only 10 to class (b). The statement showing the work disposed of by the Judicial Commissioner during the years 1902–1921 (Volume III, page 41) goes to show

that the leader of the Peshawar Bar, supported independently by Mr. Gordon-Walker, was perfectly right in telling the Committee that "*there is not enough work for two Judicial Commissioners*".

42. The majority fail to see that their objections to judicial re-amalgamation on the grounds marginally noted were in existence when the five settled districts formed part of the Punjab and were judicially under what was then the Chief Court of Lahore. If, before the separation, the judicial administration of these districts could be carried on without difficulty and with efficiency, and the "temperamentally hot-headed" Pathan reconciled himself with the law's delays and accommodated himself to the difficulties of language and distance, there is hardly any substance in these objections to the judicial administration of the Province being now transferred to the control of the High Court of Judicature at Lahore. Apart from this aspect of the matter, however, are these alleged difficulties so real and so great as to justify the rejection of the proposal for judicial re-amalgamation of the districts with the Punjab? Let me take first the alleged difficulty as to *language*. Here again, I draw upon the evidence of the leader of the Peshawar Bar, who, in reply to questions by my Colleague Mr. Parker, again gave instructive information:—

Alleged difficulties of language, distance, delay in the decision of appeals and Pathan's temperamental hot-headedness.

"Q.—It is necessary for a Munsiff to know Pushtu before he can in any way be efficient in this Province?"

A.—*Hazara is a District in which the language is Punjabi.*

Q.—In the other districts the language is Pushtu?

A.—Only Peshawar, Kohat and Bannu may require Pushtu.

Q.—And Dera Ismail Khan?

A.—The bulk of the population is mostly *not* Pushtu speaking.

Q.—Then in three districts it would be necessary for the Munsiffs to know Pushtu?

A.—*Not necessary. In Punjab times Munsiffs used to come here and quickly pick up sufficient Pushtu for their work. In the majority of cases the litigants are from the urban population*". (Volume I, pages 71-72).

It follows that in the *majority* of cases which will go up to the Lahore High Court in appeal, the litigants will be from *urban* areas. The litigants from Hazara and Dera Ismail Khan will experience no difficulty of language at Lahore. The litigants appealing to the High Court at Lahore from Peshawar, Kohat and Bannu will also in practice find no difficulty because the transfer of the control of the judicial administration of the five settled Districts to the High Court at Lahore is sure to result in some lawyers practising at present in the Frontier Province settling at Lahore, so that the appellate work from the Frontier districts will naturally go to them. In the Bombay Presidency, for instance, there are three main languages in three different parts of it, excluding Sind, namely, Marathi, Gujarati and Canarese. The result is that there are Maratha, Gujarati and Canarese Vakils of the High Court of Bombay, practising on its appellate side, to whom naturally the appellate work from their respective parts of the Presidency generally goes. A similar result would follow in the case of the Frontier Province when its judicial administration is transferred to the Lahore High Court. The language difficulty, therefore, needs no serious consideration.

As to *distance*, the difficulty is more imaginary than real. Facilities of travel have increased vastly since the Province was formed in 1902. And if, before the separation, Frontier litigants could go to Lahore for their appeals in the Chief Court there, they could go with greater ease to Lahore now. Besides, as Mr. Gordon-Walker stated in his evidence:—

"I do not know if you know that Peshawar is no further from Lahore than Delhi, and that a litigant from Delhi or Peshawar can come to Lahore in 12 or 13 hours. You also may not know that Dera Ghazi Khan is itself within the jurisdiction of the

High Court though it is very distant from here. There is no direct rail communication and the High Court is dealing with that district". (Vol. II, page 626.)

As to the *delay* in the decision of cases in the Lahore High Court, the majority make use of the figure "1,329 days (average duration of a first civil appeal in the Punjab High Court for 1920)" in spite of the fact that Mr. Gordon-Walker, in his written Note, explained that that was "*an exceptional figure*", due to "the introduction of the continuous cause list under which old appeals were disposed of first". He also explained that "there was not a sufficient number of Judges to cope with the work", the High Court being "short-handed". But, in assessing the value to be attached to this objection, it is necessary to bear in mind the points urged by Khan Sahib Saduddin Khan, leader of the Peshawar Bar, namely, that (a) "There are *very few* further appeals and *fewer still* first appeals, and *very few* cases which go up to second appeal"; and (b) "In the *majority* of cases *the litigants are from the urban population*", so that when my colleagues of the majority start, in this connection, the bogey of the Pathan, whom they describe as "temperamentally hot-headed and impatient of delay, with an hereditary tendency to take the law into his own hands", they are indulging in mere rhetoric and over-stating their case. But I will show, *in the words of one who is himself a Pathan*, that the objections which the majority have put forward to the judicial amalgamation of the Province with the Punjab have no substance in them. Qazi Mir Ahmed Khan, B.A., LL.B., a well-educated young Pathan, urged the following grounds for transferring the judicial administration of the Province to the control of the High Court of Judicature at Lahore :—

"Some *lame excuses* have been put forward by the votaries of the present system. *They say Lahore is at a great distance.* A man from Dera Ismail Khan, Bannu, Kohat and Hazara districts would certainly not feel it at all. Even the man from Peshawar felt the trouble of the trudge to Nathiagali (solid 20 miles walk on hard road) more than he would the journey to Lahore. Even now he goes to Abbottabad, and I do not think the litigant will feel any more trouble by going to Lahore than he does by going to Abbottabad. It is a pretence, for this is the first year that the Judicial Commissioner is not going to Nathiagali. * * * *Why was the convenience of litigants not considered then?* In Lahore a man can be quite comfortable and can get legal advice of a *better and even cheaper* character for the money he spends. Whenever an officer has been appointed a Judicial Commissioner and judgments of his were appealed from *the litigants always asked for their cases to go to the High Court at Lahore*".

"The other objection taken is that *it takes long to get a cause decided at Lahore.* I think the public wants *justice and no haste.* It is no argument that you should agree to an *inferior* tribunal merely because it *decides cases instantly*".

"If these arguments were sound, *all the High Courts in India* ought to be *split up* on the ground of *distance and duration.* After all, Lahore has not become more distant nor has the High Court increased its duration during the last 20 years. Then if the public never complained before, why should they be presumed to complain now?"

"Under the circumstances, I submit that there is *no justification* for the view that we should not be joined on to the High Court with all its *traditions, variety of Judges, powers* under the *charter* and retain an *inferior* court which we can safely discard. The objection to *one* judge will apply to *three* judges also because they will be *subordinate* to the Chief Commissioner and his cadre in the same way and moreover the *High Court is certainly superior to a Bench of three Judicial Commissioners.* Why

should we give up a *superior* court when we can get it and avoid expense to the tax-payers down country as well?"

"I humbly urge that *whatever may be the fate of the Province as to entire amalgamation, there is no reason why the judiciary be not amalgamated at once.* (Vol. I, pages 329-330.)

43. In the letter No. 884-G., dated Lahore, the 8th February 1922, from **The Chief Justice and Judges of the High Court of Judicature at Lahore** the Registrar of the High Court at Lahore, to the Home Secretary to the Government of the Punjab, the tentative opinion of the Judges of the High Court on this question on the few data which they had at their disposal then is given. (Volume II, page 613). In that letter, the registrar writes that he was desired to say that "the Judges understand their opinion is not required as to the advisability of transferring the Judicial administration of the North-West Frontier Province to the Punjab High Court, but they are merely asked to say whether they are willing to undertake the judicial administration of the North-West Frontier Province, and, if so, give their views on the financial aspect of the case". The reply to that is that "the Judges are willing to undertake the work provided the number of the Judges of the High Court is suitably increased". On the few data at their disposal, "the Judges are unable to say more than that at least one more Judge and perhaps two will be required to cope with the additional work", the reason being that "all first appeals and some second civil appeals together with all murder references" will, in the Lahore High Court, be dealt with by a Bench of two Judges, whereas in the Frontier Province they are disposed of by the Judicial Commissioner sitting alone. "On the other hand, it will be possible," in the opinion of the Judges, "to dispense with the services of practically the whole of the office staff including the registrar now employed by the Judicial Commissioner as soon as that office is merged in the office of the High Court at Lahore".

When Mr. Gordon-Walker, Registrar of the High Court, was examined as a witness before the Committee at Lahore, on the 4th June, 1922, he was supplied with some further data to enable the Judges to have an idea of the additional work that the High Court might have to deal with in case the judicial amalgamation of the Province with the Punjab was decided upon, and to give the Committee a more definite opinion, if possible, of the Judges as to the addition that may be needed to the number of Judges in the Lahore High Court. At the end of his examination at Lahore that day, he particularly mentioned to the Committee what the Judges wanted him to convey to the members in clear terms. He said :—

"One point which the Judges want to be made quite clear is this. The Judges are in no way concerned whether the transfer should or should not take place. That is a political matter with which they have nothing to do. *If it is decided that the judiciary of the North-West Frontier Province should be placed under the High Court, the Judges are willing and able to undertake the work, and they have asked me to emphasise this point. If you ask us to take it, we are willing and able to do it.*" (Volume II, page 633).

He was asked whether, if judicial amalgamation takes place, the judicial officers would find any difficulties owing to their ignorance of the language and local conditions of the Frontier districts. His answer was :—

"I may say in this connection that the Judges do not anticipate any trouble in regard to this matter. The High Court of Lahore has at this moment under its jurisdiction districts in which different languages are spoken. Baluchi is talked in Dera Ghazi Khan, Urdu in Delhi, and Punjabi in Amritsar. The Punjabi of, say, Kangra, is quite different from the Punjabi of Multan, so that we are dealing with a number of languages and dialects which are very different to each other". (Volume II, page 624).

When Mr. Gordon-Walker appeared before the Committee at Simla on the 12th July 1922, he mentioned to the Committee that the Judges, after

considering such material as had been supplied to them by the Committee, found it impossible to give any more definite idea than what they had already given expression to in letter No. 884-G., dated the 8th February 1922, namely, that they are unable to say more than that "at least one more Judge and perhaps two will be required to cope with the additional work", but they asked the Registrar to say "that the question is not of ultimate importance, as the Additional Judge or Judges appointed for the work can be "Temporary Additional Judges" appointed for a definite period, say two years, at the end of which it will be accurately known how many Judges will be required and what number of permanent judgeships can be made." (Volume II, page 641). In answer to a question asked by my colleague, Rao Bahadur T. Rangachariar, as to whether there was any legal difficulty in the matter of the Lahore High Court, through one of its Judge or Judges, holding its sittings in the Frontier Province, when its judicial administration was brought under its control, Mr. Gordon-Walker drew attention to and quoted paragraph 33 of the Letters Patent of that High Court, which made it possible for one or more Judges to go on circuit and exercise the jurisdiction and power vested in the High Court in any place within the jurisdiction of any Court subject to the superintendence of the High Court or at several such places. It will thus be seen that the transfer of the control and superintendence over the judicial administration of the Province to the High Court at Lahore by its judicial amalgamation with the Punjab, far from involving any of the imaginary or exaggerated difficulties put forward by the majority, is considered by the Judges of that High Court to be a practical proposition, the actual working of which they are "willing and able" to undertake.

44. There is no other way to give back to the settled districts the efficient judiciary and the proper administration of justice which they had before they were dismembered from the Punjab than to restore them again to the Punjab.

The Resolution passed by the Legislative Assembly in favour of judicial re-amalgamation is just and reasonable and should, therefore, be given effect to.

Appointment of one more Judicial Commissioner so as to have *two* Judicial Commissioners, for whom there is *not* enough work, will not in any way remedy the evil, nor will any patch-work mend matters. The majority have shut their eyes to the magnitude of the evil and the real causes of it. I do not think I need describe the evil at length. It is writ large in the Reports on the Civil and Criminal Administration of the Province and is patent to any one who moves about in the districts with his eyes open. I can scarcely help saying that to me it was a revelation and a shock to see the deplorable state of things which prevailed in the Province in regard to its grossly inefficient judiciary and the mockery of judicial administration to which the unfortunate people of the districts are being subjected. Trying to discover the real cause or causes of such a state of things, however, I came to the following conclusions:—

First, that it was primarily due to the authority and patronage vested in the Chief Commissioner, with whom ulterior political considerations or the immediate exigencies of his political duties were bound to weigh more, in the exercise of his patronage and authority, than the best interests of the judicial service itself, with the result that incompetent persons, some Khan's or Khan Bahadur's sons or relations, lacking the necessary educational qualifications and, therefore, ill-qualified for the judicial service, were appointed to it as a mark of personal favour.

Secondly, that it was directly due also to the inherent drawbacks of a small province with its necessarily small cadre rendering inevitable either frequent transfer of the judicial officers within a small area or their constant location in places where they had their own homes or family connections, either of which eventualities was detrimental to the proper discharge of judicial duties, assuming even that the holders of the posts were not altogether incompetent.

Thirdly, that it was attributable also, though in an indirect way, to the existence of the jirga system, with its vicious composition and

working, affording to the police and the judiciary, under the provisions of the Frontier Crimes Regulation, a handy instrument at their disposal for shirking their duties and thereby bringing the administration of justice into disrepute and contempt.

The last mentioned cause was removable by proper amendment of the Frontier Crimes Regulation. But the first two causes constituted the root of the evil. The real remedy is obvious. It is embodied in the first part of the Resolution which Sir Sivaswamy Aiyer moved in the Legislative Assembly on the 21st September 1921. I extract it below to draw attention to its terms:—

“That this Assembly recommends to the Governor General in Council that the powers of control and superintendence over the judicial administration in the North-West Frontier Province, now vested in the Judicial Commissioner and the Chief Commissioner of that Province, and all jurisdiction, original, appellate or revisional, now vested in them and all powers and authority in relation to the administration of justice, including the power to make rules for regulating the practice of the courts, and to authorise legal practitioners to appear and practice in such courts, be transferred to the High Court of the Punjab with the same jurisdiction, powers and authority in the five administered districts of the North-West Frontier Province as are now exercisable by that Court in the territories now vested in the Government of the Punjab and the Delhi Province.”

This alone will remove the direct causes of the evil. This Resolution was passed by the Assembly. The whole of Sir Sivaswamy Aiyer's Resolution consisted of *two* parts. The portion given above was the first part of the Resolution, as to which *no committee was asked for*. The appointment of a committee was limited to the second part only, which related to the separation of the five administered districts from the trans-frontier unadministered area and reamalgamation of the former with the Punjab while keeping the latter under the direct control of the Government of India. The President put the Resolution to the vote of the House in two parts. The Assembly passed both. When the first part of the Resolution, which stood by itself, was passed, no Member of Government in the Assembly challenged a division. That part of the Resolution, therefore, stands on a different footing from the other which asked for the appointment of a committee. The justice and reasonableness of the recommendation to the Governor General in Council contained therein have already been made clear. That being so, I venture, with great respect, to draw pointed attention to paragraph 8 of the “Instrument of Instructions” to His Excellency the Governor General of India given under Royal Sign Manual on the 15th March 1921, and trust that the Resolution of the Assembly for judicial reamalgamation of the Frontier Province with the Punjab will be given effect to by the Government of India as embodying a demand which is “just and reasonable.”

45. I will now deal with the main objection which the majority in their **The majority's main objection to the minority's solution.** Report have urged, not only with force but with vehemence, to the solution which the minority beg to submit to the Government of India as the right solution of the question which formed the subject-matter of the second part of Sir Sivaswamy Aiyer's Resolution. I will pass over without much comment all the irrelevant and unfounded remarks of the majority against the minority to the effect that the latter have invented their solution at the last moment by taking a sentence here and a sentence there from the minutes and writings of different officers contained in the Blue Book on the subject of “the North-West Frontier of India and the Punjab Frontier Administration” as a last resort of forlorn hope to prop up their *à priori* conclusions in favour of reamalgamation of the districts with the Punjab, “to them the be-all and end-all of the whole business.” I need not say that ours are not *à priori* conclusions but conclusions at which we have arrived, according to our lights, after careful consideration of the *pros* and *cons* of the questions before the Committee, nor was reamalgamation of the districts with the Punjab “the be-all and end-all of the whole business” to us any more than it was *anathema*

maranatha to the majority. As to the allegation that we have started this solution of ours by breaking "*entirely new ground in the end*," I can only say that this allegation is due to *lapse of memory* on the part of our colleagues of the majority. We started our enquiry on the 12th May 1922 at Peshawar. On the 18th May, the President asked the following question to a witness at Kohat:—

" Q.—You are inclined to think, speaking for yourself, that probably the best solution will be to transfer the districts back to the Punjab leaving the Deputy Commissioner in political control of the tracts, but as political agent under the Government of India ?

" A.—Yes "

On the 23rd May, our colleague, Chaudhri Shahabuddin, as well as the President, put questions to Nawab Habibullah Khan at Dera Ismail Khan eliciting his views on this solution put to him in distinct terms :—

Chaudhri Shahabuddin—

" Q.—In case of reamalgamation with the Punjab do you want that the small agencies, which are at present under the Deputy Commissioner, should go to the Punjab and only these five big agencies should be separated and placed under the Chief Commissioner ?

A.—There will be no harm if these small agencies go to the Punjab * * *

The President :—

Q.—Do you know Kohat too ?

A.—Yes.

Q.—Would you advise that the Orakzais who are now under the Deputy Commissioner of Kohat, should go to the Punjab ?

A.—If the Orakzai agency, for instance, is under the Deputy Commissioner, then, in case of amalgamation, it should remain under the Deputy Commissioner who will have complete control as before.

Chaudhri Shahabuddin :—

Q.—There are two kinds of agencies. Two Deputy Commissioners are political officers as well, while there are other independent officers in charge of big agencies. You say that these small agencies which are at present under Deputy Commissioners, in case of re-amalgamation, should go to the Punjab ?

A.—It will be a good thing if they go to the Punjab. But it depends on the choice of the Government of India."

(Volume I, page 712.)

On the 1st June 1922, when we were at Abbottabad, the President elicited the views of Rai Bahadur Lala Thakur Datta on this question :—

" Q.— . . . Each Deputy Commissioner at the present moment has political control over a certain portion of the tracts; what is going to happen about that ?

A.—Everything that is with the Deputy Commissioners should remain with them . . . "

(Volume II, page 277).

Later on, both Rao Bahadur T. Rangachariar and myself took up the suggestion embodied in these Questions and Answers. I asked some questions, on the 4th June, to Lieutenant-Colonel James at Lahore, giving shape to this suggestion slightly modified. His answer was "It is really quite a new idea to me. I am afraid I shall require a little time to consider it." (Volume II, pages 475—476.) I also asked questions on the subject to Sir John Maynard, Member, Executive Council, Punjab, who was the next witness we examined at Simla on the 8th June. He also said that he had never heard of the scheme

until that moment and that he would be delighted to do his best to investigate it. (Volume II, pages 487-483.) We finished taking evidence on the 28th June at Simla. It will be clear from the dates and extracts I have given above that the idea originally was not *ours*, nor was it "*new*" to our *colleagues of the majority*, much less "*entirely new*" to them, nor was it sprung upon *them* as a surprise "*in the end*". I have been compelled to write this paragraph in order that the consideration of the minority's view might not be prejudiced by the manner in which the majority have attempted to discredit it. Proceeding now to examine the majority's main objection to the minority's scheme, it amounts to this, in their own words :—

"It violates the two fundamental canons of frontier management. It violates the inseparability of the districts and the tracts; it violates the inseparability of the trans-frontier as a whole."

46. The majority in laying down what they call "*the two fundamental* **Supposed inseparability of the five settled districts from the whole of the trans-frontier tribal area.** *cannons of frontier management*" are simply begging the question. If we have to *assume* that the districts and tracts cannot at all be separated, and that the trans-frontier *as a whole* is inseparable, the committee need not have been appointed at all. The question that the Government of India have really to solve is this :—

"If it is a fact that Lord Curzon's scheme has failed, what is the alternative plan to adopt?"

To that the majority's answer is an attitude of *non-possumus*, based on the assertion that the continuance of the arrangements under Lord Curzon's scheme is a *fundamental canon* or axiom of frontier management.

The minority's answer is that there is no foundation in theory or practice for the majority's so-called "*two fundamental canons of frontier management*", that it is not consistent with facts to allege *complete* inseparability of the *whole* of the trans-frontier area, and that, therefore, there *is* an alternative plan, namely, what Lord Curzon, in paragraph 43 of his Minute of the 27th August 1900, sets out as "*a third compromise*", divested of its objectionable features so as to make it workable in practice. That compromise is described by Lord Curzon thus :—

"43. There is a third compromise which in the course of my study of the present question since I have been in India, at one time possessed attractions for myself. It was to take all the trans-frontier charges, from Chitral to the Gomal, now under the control *either of the Government of India or of the Punjab Government, viz.*, (1) Dir, Swat, and Chitral, (2) the Khyber, (3) Samana, (4) the Kurram, (5) the Tochi, (6) Wana, and to place the Political Officers for *all* these districts under a single high officer, who equally with them should be appointed by the Government of India, and should report exclusively to the latter upon all political and external affairs, *the civil and administrative organisation of the Punjab Government remaining untouched*, and the *conduct of cis-border affairs* continuing to be vested in the hands of its Commissioners and Deputy Commissioners".

- In this scheme, Lord Curzon, it will be noted, wanted to make a *clean cut* between the settled, that is to say, the administered, districts on the one hand and the *whole* of the unadministered tribal territory on the other, keeping the civil administration of the former with the Punjab Government and vesting the political control of the latter in the hands of a separate high officer under the Government of India. In other words, this scheme proposed *complete* separation between tribal management and civil administration. It was open to the objection that it "*divorced* the Deputy Commissioner from the management of the border clans who march with his district". In the correspondence published in the Blue-Book, the Frontier officers of the time have laid stress on the necessity of not divesting the Deputy Commissioner of the political control of the tribal tract immediately adjoining his district. There is a clear distinction made between such immediately adjoining tracts and "tracts in

regard to which separate political charges have been framed". The ground upon which this political control of the adjoining tribe or tribes for the Deputy Commissioner is claimed is that "an infinity of questions, of disputes and disagreements of *business* arises from the daily intercourse of these people", which has to be settled by the Deputy Commissioner promptly and with justice. "It is business", says Mr. Merk, "which is quite distinct from the Imperial questions in which British and independent interests, as such, are arrayed against each other". The latter is "purely external", while the former is "not purely external" and is described by Sir Richard Udney, at pages 95 and 96 of the Blue Book, and one of the class of cases mentioned by him is cis and trans-border boundary disputes, which should be managed, he says, "as would be done in disputes of the same kind between a Native State under the Foreign Department and the conterminous Local Administration in British India". Thus, there was clear distinction made between tribes immediately adjoining a Deputy Commissioner's district and tribes in remote areas for which separate political charges had been framed. The latter arrangement was due to the "necessity of severing tribal management from administrative pre-occupations". (*Vide* paragraph 66 of Lord Curzon's Minute, page 144 of the Blue-Book) Having regard to this distinction between the tribes immediately adjoining a Deputy Commissioner's district and the tribes in the remote areas under separate political agencies, the remark of Sir Mackworth Young becomes intelligible, namely, :—

"The management of trans-frontier tribes is so much mixed up with that of the *adjoining* British frontier, that their *complete* separation is impossible."

It follows that their *partial* separation is possible. But Lord Curzon's "third compromise" was based on *complete* separation of cis-border civil administration from trans-border political control. If we divest that "third compromise" of its objectionable feature of "divorcing" the Deputy Commissioner from his political control over the tract immediately adjoining his district, the scheme assumes the form which the minority beg to submit to Government for their acceptance.

When the majority urge that our scheme violates what they have called their "two fundamental canons of frontier management", it is necessary to inquire whether or not in practice a clear distinction is made between the adjacent tribal tracts under the political control of the Deputy Commissioners and the separate political agencies in regard to remote trans-frontier tribes. Mr. S. E. Pears, C.I.E., I.C.S., Resident in Waziristan, in his memorandum submitted to the Committee (Volume I, page 755), distinguishes clearly between "adjacent tribes across the border" which are under the Deputy Commissioners' control, "not necessarily because they own land or reside during the winter in British territory, but because those trans-border tribes are economically dependent on British territory," and "tribes which are *more inaccessible*, in some cases *utterly remote from the British border and, economically independent of the British districts*". In the case of the latter, he says "we are faced with much more complex problems." He further observes that "the solution has been sought in the constitution of five distinct Political Agencies, and no better solution has ever been suggested". Thus, not only is the trans-frontier area separable in theory but actually treated as separate in practice. And not only are the districts and tracts, in so far as the latter are adjacent to and economically dependent on the former, capable of separate treatment from the rest for purposes of civil administration of the districts but are actually proposed to be so kept in the minority's scheme. To give the whole list of the various tribes in the trans-frontier area and say that they are interlaced and therefore inseparable is to ignore the fact that the so-called interlacing is treated as non-existent in practice by their being allotted for the purposes of political control to authorities independent of each other, both in the matter of their powers and their jurisdiction, and differing in the nature of the control exercised by them over the tribes in their respective charge. The officers in the agencies do *not* exercise, as wrongly asserted by the majority, any control *within* the districts. Their subordination as also that of the Deputy Commissioners to the Chief Commissioner is responsible for the

progress and well-being of the people of the districts being sacrificed to the policy of pampering the tribes. In paragraph 21, the majority say :—" We said before and we say now that there is *no inseparability* between the districts and the tracts, if the tracts are dominated, administered and converted into districts" and yet in paragraph 28, they give a veiled threat to the Government of India that "if the Pathan race were now *dismembered* and one-half merged against its will in the Punjab, the tendency would be for the other half to look elsewhere than to India, and one of the most warlike races of Central Asia might be lost to the Indian Empire." If after the tracts are converted into districts the majority are ready to concede *separability* between them and the districts, that it is to say, *dismemberment* of the Pathan race into two compartments, why should not the dismemberment be made now and what is the value to be attached to the threat they have administered to Government? Administering threats seems to be their stock "argument". For, they say to Government that if the minority's scheme is accepted, it "would paralyse the management of India's most vital frontier affairs" and then comes the following piece of composition :—"It beggars the imagination to picture the friction, the confusion, the chaos, the paralysis of all action that would supervene under our colleague's scheme", etc. All I need say is that the imaginative faculty of my colleagues of the majority beggars description. Instead of dispassionately discussing the merits and demerits of the minority's scheme and weighing its advantages and disadvantages in a spirit of fairness, they have, I am sorry to say, indulged in mere declamation. No expert witness has pronounced his verdict *against* our solution. The fact is that it was not present to their minds. In giving their considered opinion on the first term of reference, they took it for granted that it meant a *clean cut* between the administered districts on the one hand and the *whole* of the unadministered tribal tract on the other. When the *juste milieu* of retaining with the Deputy Commissioners their present political control of the tribal tract immediately adjacent to their districts and restoring to the Punjab Government the civil administration of the districts thus separated was put to Lieutenant-Colonel James or to Sir John Maynard, the former said that it was really quite a new idea to him and that he was afraid he would require a little time to consider it, and the latter said he had never heard of it until it was put to him, but that he would be delighted to do his best to investigate it. I have already pointed out in a previous paragraph (paragraph 16) that if the proposals of the majority to inaugurate "full-fledged reforms" in the Province,—"*a live and vigorous*" constitution with "*all the essentials in the reforms enjoyed by a major Province*"—are given effect to, the civil administration of the districts in all the various departments which are "*transferred*" departments in the Punjab would be *separated* in theory as well as in practice not only from the political control of the tribal tracts but also from the direct control of the Government of India, so that their so-called "*fundamental canon*" of *inseparability* of the districts and the tracts is discarded by them in their own proposals.

47. But, then, say the majority, how can this re-amalgamation with the

Punjab objections.

Punjab be given effect to against the Resolution passed recently by the Punjab Legislative Council, as also against the wishes of the Punjab Government? I do not think the former objection requires detailed comment. As a matter of fact, when this idea of the Punjab Legislative Council being asked to pronounce its opinion on the question before the Committee was mooted, I told the President that I decline to be guided in this matter by the decision of a body which has not before it the material which was available to us, and that whatever the view of the Punjab Legislative Council might turn out to be, it was not right that the committee should allow its own view to be influenced by it. As to the Punjab Government's view, however, the matter stands obviously on a different footing. That view was put forward before the committee by Sir John Maynard, whose opinion is undoubtedly entitled to great weight. He divided the opinion of the Punjab Government into two parts :—(1) Judicial amalgamation; and (2) Executive amalgamation.

As to Judicial amalgamation he said.—

"We are virtually neutral." "It might mean, I suppose, an additional Judge of the High Court. There would be about half a

Judge's work more. It would obviously strengthen the case for an addition to the High Court". "On this point the Punjab Government are entirely neutral and it is simply a question of financial adjustment and addition to staff". (Volume II, page 482) "Looking into the matter, the only objections we saw to the Judicial amalgamation were, first, a financial one, which can be disposed of; and secondly, the possible objection which may be made of our getting a certain number of inferior subordinate judicial officers. That would only affect us for 15 years or so." (Volume II, page 517.)

So that, on the question of Judicial amalgamation, the Punjab Government do not mind if the Government of India decide to bring it about.

As to Executive amalgamation.—

The Punjab Government's view was summed up in the words, "Both or neither", that is to say, give us the whole thing back or nothing at all. "That view", Sir John Maynard said, "was based on the records of the past, not upon the opinions of officers who have had frontier training". He quoted Sir Alfred Lyall's opinion and urged that both sides of the frontier must be in the hands of the same British authority. (Volume II, page 483.) In his view the Political Agencies should be subordinate to the Deputy Commissioners and not independent of them, as at present. (*Vide* II page 512). As already mentioned in the preceding paragraph, when the middle course between "both or neither", embodied in the minority's scheme, was put to him, he no doubt said he realised the difficulty of dividing up the Orkzais from the Afridis, but he also said that the Punjab Government had not considered it, as he had not heard of it until that moment and that he would be delighted to do his best to investigate it. (Volume II, pages 487-488.)

The second difficulty which he raised was that of the financial burden which would be placed on the Punjab Government by the transfer of the Frontier settled districts to the Punjab, but he admitted that it was a matter capable of adjustment between the Government of India and the Punjab Government, and he saw really no objection to a reviewable assignment after a certain definite period. (Volume II, page 487).

The third difficulty which he pointed out was that the communal equilibrium between Mahomedans and non-Mahomedans in the Punjab Legislative Council, in accordance with the Lucknow compact, would be disturbed. He thought that was the principal difficulty. After Sir John Maynard gave his evidence, the debate in the Punjab Legislative Council on the subject of re-amalgamation took place; and it is noteworthy that the Hindus who stand to lose by amalgamation in respect of their numerical strength in the Punjab Legislative Council voted solidly in favour of re-amalgamation, and did not attach importance to the fact that the communal equilibrium in the Punjab Legislative Council would thereby be disturbed to their prejudice. This, however, is a matter to be considered and adjusted primarily by the parties concerned in the same way and in the same spirit of mutual accommodation and brotherly feeling which resulted in the well-known Lucknow compact, which, I think, can, without difficulty, be brought about after the Government of India and the Secretary of State have come to a decision on the main question as to whether or not the last 20 years' experience of the experimental measure of Lord Curzon dictates a reversal of that measure and the reversion of the civil administration of the five settled districts to the Punjab. When a decision on this question has been arrived at, the *details* of the scheme to be brought into operation could be thought out and shaped by the authorities after consultation with the representatives of the different communities affected by the proposed change, and then the scheme as finally approved by the Government of India and the Secretary of State would come into operation. It is premature, therefore, to go into this question. It is a sufficient answer to the objection that the community in the Punjab, whose interests are in conflict with the proposal for re-amalgamation, has, through its representatives, declared itself in favour of it.

The fourth difficulty, which Sir John Maynard mentioned, was "about the Punjab having enough work of its own for the Governor". "You cannot", he added, "diminish that by any adjustments in the Secretariat very well." (Vol. II, page 485.)

Those were the difficulties pointed out by Sir John Maynard on behalf of the Punjab Government to "Executive Amalgamation". My colleague, Rao Bahadur T. Rangachariar, however, asked a question to Sir John Maynard, whose answer to it shows how the matter really stands :—

Q.—I take it that your Government wish merely to point out the difficulties, not that they are unwilling or unable to undertake the task if the Government of India so decide ?

A.—I think that is always the position. I would undertake any task that was put upon me."

I do not minimize the last difficulty which he has mentioned. No doubt the Punjab has become an anxious charge to the Governor of the Province. But in case executive re-amalgamation is decided upon by the Government of India, the Commissioner of the Punjab Government, who will be stationed at Peshawar, will have to be vested with delegated powers in such a way as not to overburden the Governor with heavy work in connection with the administration of the districts. It is not, therefore, such an insuperable difficulty as might appear at first sight.

48. I proceed now to give my answers to the terms of reference. I may mention at the outset that there is no difference between me and my colleague, Rao Bahadur T. Rangachariar, as to the substance of the recommendations which he has formulated in his report.

**The Terms of Reference and
My Answers.**

First Term of Reference.—“Whether it is expedient to separate the administration of the five administered districts of the North-West Frontier Province from the political control of the adjoining unadministered tracts.”

Answer.—It is not only feasible but expedient to recognise and give effect to the prevailing distinction in practice between the immediately adjoining unadministered tracts which are at present under the political control of the Deputy Commissioners of the districts and the other tracts for which a separate Residency and separate Political Agencies, independent of Deputy Commissioners and of district civil administration, have been created. The former are, can be, and should be, separated from the latter tracts. It is not only expedient but necessary to do so in the interests of the people of the five districts.

Second Term of Reference.—“Whether if such separation is expedient, it is expedient to re-amalgamate the five districts with the Punjab ?”

Answer.—The five districts together with the political control of the immediately adjoining unadministered tracts which are at present with the Deputy Commissioners being separated in the manner described in answer to the first term of reference, the five districts so separated should be re-amalgamated with the Punjab. Such re-amalgamation is not only expedient but urgently called for both in the interests of the central revenues and for the purpose of freeing the people of the five districts from the inherent drawbacks, disabilities and disadvantages of a miniature province and conferring on them the benefits of an efficient and progressive civil administration in all its branches as also of political progress on sound lines.

Third Term of Reference.—“Whether, if such separation is not expedient it is expedient (a) to retain the whole province directly under the Government of India, and if so, (b) to constitute a Legislative Council for the five administered districts.”

Answer.—(a) If the majority view prevails, namely, that such separation is not expedient, there is no question but that the whole Province should be directly under the Government of India. But I am not in favour of retaining control, *both* administrative and political, directly under the Foreign and Political Department. I consider that Department to be utterly unsuited for the purpose of controlling or supervising the civil administration of *any* Province. I would, therefore, retain only the political and foreign relations under that Department and transfer the administrative control of the Province to the Home Department of the Government of India.

(b) This is incompatible with the idea of the whole Province being directly under the Government of India. The utmost that the Province can have, consistently with that idea, is a mere "advisory Council." But I would not recommend any such being started in the Province. It is bound to lead to an insistent demand by the intelligentsia of the Province for a real Legislative Council, and would involve a step which not only cannot be retraced but is bound to lead to a further step and a still further step, causing a yearly increasing drain on the central revenues. I would, therefore, recommend larger representation of the Province in the central Legislature in the immediate future and would prefer the number of seats proposed by my colleague, Rao Bahadur T. Rangachariar, namely, 6 in the Legislative Assembly,—5 by election and 1 by nomination,—and 2 in the Council of State, 1 by election and 1 by nomination. If the Government of India do not re-amalgamate the five settled districts with the Punjab in the manner recommended by the minority, I would respectfully advise the Government of India not to take the false step of taking away from the purview of the Legislative Assembly its present control and powers in regard to the affairs and expenditure of the Province in any manner.

Fourth Term of Reference.—(The first part refers to Judicial Amalgamation).

Answer.—My answer is in the affirmative. But I think it necessary to again emphasize the point that the recommendation of the Legislative Assembly on the subject, as embodied in the Resolution passed by it, being "just and reasonable," should be given effect to by the Governor-General in Council. On this answer the second part of this term of reference does not arise.

Fifth Term of Reference.—"The approximate financial effect of any proposals recommended."

Answer.—The recommendations of the minority would certainly be beneficial to the central revenues and would, in any case, put a stop to the increasing drain on them for the civil administration of the five districts. The Punjab Government will no doubt have to be provided with financial means to meet the extra burden which will be thrown on it by taking over the civil administration of the five districts. This can be arranged, for the present at any rate, by reducing its Provincial contribution to the central Government to cover what would, on reasonable calculations, be taken to be the deficit which the Punjab Government would have to meet on the *net* civil expenditure of the settled districts. Sir John Maynard, in his evidence before the Committee, made the following observations.—

"I should say that, *prima facie*, the amalgamation of offices would tend to the diminution of the cost of establishments."

"Other things being equal, it is no doubt the case that a larger province can run these things (meaning the establishments) more economically."

He was of opinion that by amalgamation the expenditure, on the civil administration of the province, could be curtailed and he thought the deficit might be brought down to half its present figure. His words in connection with the reduction of expenditure and *pro tanto* of the deficit of the province were :—

“ Of course, a certain amount of that would be got rid of, possibly as much as half might be got rid of.” (Vol. II, page 485.)

Rai Bahadur Lala Thakur Datta, in his memorandum, says :—

“ If the five settled districts are amalgamated with the Punjab, there will be considerable saving in civil expenses. We have not full details of the existing establishment nor is it possible off hand to determine the cost which will be necessary as a result of transfer. I have looked at the figures of estimates and demands for grants for expenditure of the Central Government for 1922-23 so far as they relate to the North-West Frontier Province. I have made out a rough memorandum, which is attached, of the savings which, in my opinion, will be effected: these amount to Rs. 5,16,000 a year.” (Vol. II, page 254.)

It will be apparent to the Government of India that the minority's proposals are calculated to relieve the central revenues to a considerable extent of the burden imposed at present on them for the civil administration of the Province. A little expense will have to be borne for the additional members proposed by the minority for the Legislative Assembly and the Council of State to represent the Province in the two bodies. But that addition is a flea-bite as compared to the heavy and yearly increasing burden which the majority's proposals would inflict on the central Government's financial resources.

49. I will now bring this Minute to a close. It has become much longer than I expected it to be when I started writing it. I have endeavoured, in the

Concluding Remarks.

course of it, to place before the Government of India, as fully as possible and as clearly as I could, the reasons which have compelled me to differ from my colleagues of the majority and the grounds on which the minority's solution of the real problem involved in the terms of reference is based. The majority, I regret to have to say, have deliberately shut their eyes to that problem and have declined to face it. The system of government, both for civil administration of the districts detached from the Punjab and political control of the trans-frontier tribes, which Lord Curzon set up 20 years ago, was on its trial. The Foreign and Political Department itself was on its trial. The whole policy of trans-border management underlying Lord Curzon's scheme and the scheme itself for civil administration under the Chief Commissioner having “ two very different sets of duties to perform and supervise ” had proved an utter failure. His tribal militias went to pieces at the first real test to which they were put. Instead of his postulated “ tribal contentment ” materialising, tribal turbulence has been the result. And as to his plea for a separate Frontier Province on the ground of “ reduced outlay ” and economy, it has been so woefully falsified to the detriment of the central revenues as to justify on that ground alone, if on no other, a reversal of his whole scheme and policy. The failure of the Foreign and Political Department to manage this Province, both in regard to its civil administration and the control of the trans-border tribes,—two separate and incompatible functions centred in a Department, incompetent to manage the first—is writ large in the miserable lot of the people of the Province, an apparent indifference to which was argued, according to Sir George Roos-Keppel, by Government's failure to embark on a Forward Policy. The majority not only retain Lord Curzon's scheme and policy but urge with vehemence that no other alternative is thinkable. They make light of the drain on the central revenues caused by the Province on account of its civil administration and approach Government, in all seriousness, with a request for an amendment of the Government of India Act so as to be permitted to bring into being a political and financial Frankenstein on the North-West Frontier of India. The minority, on the other hand, could not ignore the fact that Lord Curzon's

scheme and policy had utterly failed and that it would be a dereliction of duty on their part to make recommendations to Government which not only perpetuated that scheme and policy, but threw on the central revenues the additional growing burden of the costly reform machinery. They have, therefore, formulated a solution for the acceptance of Government, for which they claim no originality. It is, in a modified form, the scheme which Lord Curzon has mentioned in his Minute as one which possessed attractions for himself at one time. In the minority's solution, all that is done is to divest that scheme of its objectionable feature of *complete* separation between the districts and the tracts. The minority do not claim that their scheme is perfect. No scheme can be devised which will not be open to some objection or other. The question to be considered is not only whether the disadvantages of the minority's proposed scheme outweigh its advantages or *vice versa* but also whether the perpetuation of this miniature Province and its political development as a separate entity on autonomous lines, would be politically and financially a wise and sound policy. Apart, however, from the question of executive re-amalgamation of the five districts, the question of their Judicial re-amalgamation with the Punjab, which stands on a different footing altogether, has not received, at the hands of the majority, the treatment it deserved in a spirit of fairness and detachment. On this question, at any rate, I did not expect the majority to take a different view from that of the minority. The Legislative Assembly had expressed its view in favour of it by passing a Resolution which did *not* ask for the appointment of a Committee to inquire into its advisability. The Punjab High Court is "willing and able" to undertake it. The Punjab Government is "neutral" about it. And yet, the majority did not see their way to agree with the minority *even on this question*. It was evident that the majority's whole outlook was hopelessly divergent in all essential matters from that of the minority. No unanimity under such circumstances was possible. To me and to my colleague, Rao Bahadur T. Kangachariar, the result was regrettable. But there was no help for it. It was unavoidable. And the Government of India have now to decide between the two divergent views of the majority on the one hand and the minority on the other.

50. I cannot complete this Minute without saying a few words about the officers on the spot, who not only made excellent arrangements for our comforts and conveniences during the Committee's tour through the Province, but placed before us carefully prepared memoranda, on which I have freely drawn for my purposes and for which I feel thankful to them, although I have not been able to see eye to eye with them on many matters. I need not add that I attach no blame to the Chief Commissioner and the other officers on the spot. They are not responsible for the faulty system which they are asked to work and of which they are not only the instruments but also its victims. The great ability, the daily anxiety, the strenuous labour, the continuous strain, and the keen sense of duty, with which they are working it, are beyond all praise. When it comes, however, to assessing the views which they have expressed on the questions before the Committee, while I attach due weight to their official experience and knowledge, I can scarcely ignore the factor to be taken into account in a matter of this kind, namely, that they are apt to have contracted an unconscious bias in favour of a system to which they have become accustomed and with which they have been identified for several years.

51. I regret the delay which has occurred in submitting this Minute owing to certain difficulties under which I had to write it and the labour involved and the time taken in writing it.

BOMBAY;

The 30th November 1922.

N. M. SAMARTH.